

Vs Mohinder Singh

FIR No. 56/2017

Present:- Sh. Jatinder Pal Singh, APP for the State.

Both accused on bail assisted by Sh. R.S. AbhiAdvocate.

Order:

1. This order of mine shall dispose off an application under section 319 Cr.PC for summoning of Daljit Kaur, Amarjit Kaur, Paramjit Kaur, Amandeep Kaur and Meenu as co accused in the above noted case.

2. In the application it is stated that the application/complainant has filed an application no. 892/SSP Hoshiarpur against the above said persons and Dalwinder Singh her husband and Mohinder Singh her father in law before the SSP Hoshiarpur. However the above said persons were illegally declared innocent during the inquiry. The prosecution has examined Sarabjit Kaur complainant as PW1 and who has clearly stated in her examination in chief that the persons whose names are entered the subject this applications has also demanded dowry as is mentioned in the application and as well as FIR from the complainant and some dowry articles are also lying in their possession and in this way they have demanded Maruti Swift Car and they have also misappropriated her isthridhan during her stay at her matrimonial house. There is sufficient evidence for the summoning of the above said persons and co accused in this case to face the trial u/s 498A, 406 of IPC, hence they are liable to be summoned under the provision of u/s 319 Cr.PC.

3 Heard. By way of present application, the prosecution wants to summon Daljit Kaur (mother in law), Amarjit Kaur, Paramjit Kaur ((sisters in law/Nanad), Amandeep Kaur(Jethani) and Meenu (daugther of Nanad).

It is well settled that the unless there are reasonable prospects of conviction, the powers under section 319 Criminal Procedure Code, 1973 for summoning the additional

accused for trial should not be used. In the case of *Michael Machado and another Vs Central Bureau of Investigation and another*, 2000(3) SCC 262:2000(2) RCR(Crl.) 75(SC) the Supreme Court has taken the view that on the basis of mere suspicion, powers under section 319 Criminal Procedure Code, 1973 cannot be used. In this regard, the observation of the Supreme Court reads as under:-

The basis requirement for invoking the above section is that it should appear to the Court from the evidence collected during trial or in the inquiry that some other person, who is not arraigned as an accused in that case, has committed an offence for which that person could be tried together with the accused already arraigned. It is not enough that the Court entertained some doubt, from the evidence, about the involvement of another person in the offence. In other words, the Court must take into two aspects. First is that the other person has committed an offence. Second is that for such offence that other person could as well as be tried along with the already arraigned accused.

But even then, what is conferred on the Court is only a discretion as could be discerned from the words “the court may proceed against such person” The discretionary power so conferred should be exercised only to achieve criminal justice. It is not that the Court should turn against another person whenever it comes across evidence connecting that another person also with the offence. A judicial exercise is called for, keeping a conspectus of the case, including the stage at which the trial has proceeded already and the quantum of evidence collected till then, and also the amount of time which the court had spent of collecting such evidence. It must be remembered that there is no compelling duty on the Court to proceed against other persons.”

Examining statement of Sarabjit Kaur shows that she has deposed that she got married to Dalwinder Singh son of Mohinder Singh on 9.3.2014 and her husband, father in

law Mohinder Singh, mother in law Daljit Kaur, Amarjit Kaur, Paramjit Kaur(Nanad) and Amandeep Kaur(jethani) and Meenu were present at the time of giving dowry. It is further stated that all the above mentioned person were not happy with the dowry articles and they started maltreating and harassing her for the demand of dowry and demand of maruti Swift Car. It is further stated that her husband remained in India for about one month and eight days and thereafter he moved to German and her in laws started demanding dowry articles from her. Further perusal of the file shows that present FIR was got registered on written application moved by Sarabjit Kaur complainant. Perusal of written complaint Ex.PA shows that she has mentioned specific date/months of her maltreatment by the accused in her matrimonial house, however no such specif date or month has been mentioned in the statement of complainant recorded in the court as PW2. Perusal of Ex.PA, the written complainant, on the basis of which the present FIR has been lodged shows that sisters in law/nanad of complainant are married. It is nowhere stated by the complainant that her sisters in law are residing with her parents or in the matrimonial house of complainant. Meenu is daughter of sister in law of complainant Sarabjit Kaur. The allegations against above mentioned persons are general in character and are confined to demand of dowry. It is pertinent to mention here that there is tenancy to involve every member of the family which have been reflected in large number of cases. The husband and father in law of the complainant are already facing trial. For the reasons mentioned above. There are no sufficient grounds to summon the above mentioned person as accused u/s 319 Cr, PC, accordingly, application u/s 319 Cr PC stands dismissed. Let Pws be summoned for 24.2.2020.

Dated: 30.1.2020

Kulwinder Singh-Stenographer-II

(Amandeep Kaur) PCS

SDJM/ Dasuya

UID No.PB-0339