



2026:AHC:2788

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6573 of 2024

Man Singh

.....Revisionist(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Revisionist(s) : Phool Singh Yadav, Vaibhav Yadav
Counsel for Opposite Party(s) : Dev Raj Singh, G.A.

Court No. - 84

HON'BLE CHAWAN PRAKASH, J.

1. Heard Sri Phool Singh Yadav, learned counsel for the revisionist, learned A.G.A. for the State and Sri Dev Raj Singh, learned counsel for the opposite party nos. 2 to 4.

2. The present revision has been filed against the order dated 08.11.2024 passed by the learned Additional District & Sessions Judge/Fast Track Court, Court No. 1, Kaushambi, in S.T. No. 74 of 2020 (State Vs. Manoj Yadav), arising out of Case Crime No. 01 of 2020, under Sections 498A, 302 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Mohabbatpur Painsa, District Kaushambi whereby the application under Section 319 Cr.P.C. filed by the revisionist has been rejected.

3. The brief facts of the case are that marriage of the daughter of the informant namely Radhika was solemnized with Manoj about five years ago according to Hindu Rites and Rituals and after marriage, husband Manoj, father-in-law Bhaiya Lal, mother-in-law and Dewar Ashok Kumar started demanding a buffalo and golden ring as additional dowry and harassing his daughter. Manoj had illicit relations with Sunita, sister-in-law. One month before the incident, Sunita and Manoj were called by the informant. On 07.01.2020 the husband and other in-laws hanged his daughter after killing her. The F.I.R. was registered as Case Crime No. 01 of 2020, under Sections 498-A, 304B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Mohabbatpur Pairsa, District Kaushambi against husband Manoj, father-in-

law Bhaiya Lal, mother-in-law and brother-in-law (Dewar) Ashok Kumar and Sunita Devi on the basis of tehrir given by the informant Man Singh. During investigation, statement of prosecution witnesses and other witnesses were recorded by the Investigating Officer. After investigation, the Investigating Officer submitted charge sheet only against Manoj under Sections 498-A, 304B I.P.C. and Section 3/4 Dowry Prohibition Act. During trial, charges were framed against the accused Vinod. Thereafter, after recording statements of PW-1 and PW-2, accused-opposite party nos. 2 to 4 were summoned to face trial by the learned trial court vide impugned order dated 08.11.2024. Aggrieved against the said order, the present revision has been filed.

4. It is submitted by learned counsel for the revisionist that marriage of the daughter of the informant namely Radhika was solemnized with Manoj about five years ago of the alleged incident, according to Hindu Rites and Rituals in which sufficient dowry was given but the husband and other in-laws were not satisfied with the dowry. After marriage, husband Manoj and his family members started demanding a buffalo and golden ring as additional dowry and harassing his daughter. Manoj had illicit relations with his sister-in-law, Sunita. On 07.01.2020 the husband and other family members killed her daughter. On receiving information, he came there and found that the dead body of the deceased was lying on the floor. The F.I.R. was registered as Case Crime No. 01 of 2020, under Sections 498-A, 304B I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Mohabbatpur Pairsa, District Kaushambi against husband Manoj, father-in-law Bhaiya Lal, mother-in-law, brother-in-law (Dewar) Ashok Kumar and Sunita Devi on the basis of tehrir given by the informant Man Singh. During investigation, statement of informant and other witnesses were recorded by the Investigating Officer under Section 161 Cr.P.C. and they supported the prosecution version. After investigation, the Investigating Officer submitted charge sheet only against Manoj under Sections 498-A, 304B I.P.C. and Section 3/4 Dowry Prohibition Act. During trial, statements of PW-1 Man Singh and PW-2 Indresh Singh were recorded in which they supported the prosecution version and stated about the role of opposite party nos. 2 to 4. It is further submitted that a *prima facie* case is made out against the opposite party nos. 2 to 4 but the learned trial court rejected the application under Section 319 Cr. P.C.. It is next submitted that the impugned order is illegal

and has been passed against the settled principles of law and liable to be set aside.

5. Learned counsel for the revisionist has placed reliance upon a judgment of Apex Court in the case of ***Asim Akhtar Vs. The State of West Bengal and another*** passed in Criminal Appeal No. of 2024 (Special Leave to Petition (Crl.) No. 12292 of 2022) decided on 18.10.2024.

6. Per contra, learned counsel for the opposite party nos. 2 to 4 as well as learned A.G.A. opposed the submissions made by learned counsel for the revisionist and submitted that the learned trial court has not committed any illegality in passing the impugned order and the said order has been passed as per the settled principles of law and as per fact of this case. The marriage of the daughter of the revisionist was solemnized with the son of opposite party nos. 2 and 3 about five years before the date of incident. The marriage was solemnized in very simple way. No demand of dowry was made by opposite party nos. 2 to 4 at the time of marriage or after the marriage. The opposite party nos. 2 to 4 are living separately from the family of his son Manoj. The deceased committed suicide due to some personal reason and the revisionist has falsely implicated the opposite party nos. 2 to 4 in the present case. The Investigating Officer recorded statements of some independent witnesses who clearly stated that the opposite party nos. 2 to 4 are living separately from the deceased. The fair investigating was conducted by the Investigating Officer and he did not find any role of opposite party nos. 2 to 4 in the present case and has not filed any charge sheet against them. During trial, PW-1 Man Singh and PW-2 Indresh Singh being the relatives of the deceased has given their evidence but cross-examination they have clearly stated that it was husband of the deceased who made demand of a buffalo and golden ring. There are major contradictions in their statements. No *prima facie* case is made out against the opposite party nos. 2 to 4. The learned trial court has rightly rejected the said application and the revision is liable to be dismissed. Learned counsel for the opposite party nos. 2 to 4 has placed reliance upon a judgment of Hon'ble Apex Court in the Case of ***Hardeep Singh & others Vs. State of Punjab & others 2014 0 Supreme(SC)27.***

7. As per fact of the case, an F.I.R. as Case Crime No. 01 of 2020, under

Sections 498A, 302 I.P.C. and Section 3/4 Dowry Prohibition Act, Police Station Mohabbatpur Painsa, District Kaushambi was registered against the accused Manoj (husband), Bhaiya Lal (father-in-law), mother-in-law and Ashok Kumar (Dewar). During investigation, the Investigating Officer recorded the statements of the informant and other witnesses. He recorded the statements of about 19 persons under Section 161 Cr.P.C. The Investigating Officer found no role of opposite party nos. 2 to 4 and did not file charge sheet against them and charge sheet was filed only against Manoj.

8. During trial, statements of PW-1 Man Singh and PW-2 Indresh Singh were recorded. An application under Section 319 Cr.P.C. was filed for summoning the accused opposite party nos. 2 to 4 and the same was rejected by the learned trial court.

9. The learned trial court while passing the impugned order held that we perused the certain portion of the evidence of PW-1 Man Singh and PW-2 Indresh Singh. PW-1 in his cross-examination dated 21.12.2021 has stated that Manoj had made demand of a buffalo and golden ring.

10. As per the impugned order, statement of Dr. Akhilesh Kumar was recorded as PW-3 who stated that cause of death of the deceased was hanging. The Investigating Officer Rajvir Singh as PW-5 has also stated that Manoj Kumar was living separately with his wife.

11. Learned counsel for the revisionist has placed reliance upon the judgment of the Hon'ble Apex Court in the case of *Asim Akhtar v. State of W.B., 2024 SCC OnLine SC 2919* and submitted that the Hon'ble Apex Court in paragraph 17 of the judgement held that complicity of any person sought to be arrayed as an accused can be decided with or without conducting cross-examination of the complainant and other prosecution witnesses, and there is no mandate to decide the application under Section 319 Cr.P.C. before cross-examination of other witnesses. The revisionist can not get benefit of the said case as the facts of the said case are different from the present case.

12. Section 319 Cr.P.C. read as under:-

"319. Power to proceed against other persons appearing to be guilty of offence.-(1) *Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.*

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then?

(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."

13. Therefore, from Section 319 Cr.P.C., it is apparent that trial court is empowered to summon a person to face trial, who is not the accused in the case on the basis of the evidence. The word 'evidence' used in Section 319 Cr.P.C. is significant. The Constitution Bench of the Apex Court in case of *Hardeep Singh Vs. State of Punjab & Others (2014) 3 SCC 92* held that the word 'evidence' used in Section 319(1) Cr.P.C. indicates, the word 'evidence' is limited to the evidence recorded during trial.

14. The Apex Court in case of *Omi v. State of M.P., (2025) 2 SCC 621* also held that trial court can add an individual as accused only on the basis of the evidence adduced before it and not on the basis of the materials available in the charge-sheet or the case diary because such materials contained in the charge-sheet or the case diary do not constitute evidence.

15. The Apex Court in the case of *Shiv Baran v. State of U.P., 2025 SCC OnLine SC 1457* also held that trial court can exercise power to summon an additional accused under Section 319 Cr.P.C. only on the basis of the evidence adduced before it and not any other material collected during investigation.

16. Therefore, from the above dictum of the Apex Court, it is apparent that while invoking power under Section 319 Cr.P.C. trial court should consider the statements of the witnesses adduced before it and it should not place reliance upon the material available in the charge-sheet or the case diary.

17. The law with regard to the summoning of an accused under Section 319 Cr.P.C. is settled that this power is an extraordinary power, which should be used sparingly with circumspection and while passing the summoning order under Section 319 Cr.P.C. court must consider whether more than prima-facie case is made out, or not. For summoning an additional accused under Section 319 Cr.P.C. mere prima-facie case is not sufficient. [*See: Constitution Bench judgment of Apex Court Hardeep Singh (supra)*]. Therefore, in light of the above principles, it is to analyze, whether before the trial court material was sufficient to summon the revisionists under Section 319 Cr.P.C. or not.

18. Therefore, from the discussion made above, in considered view of this Court, impugned order dated 08.11.2024 passed by the learned Additional District & Sessions Judge/Fast Track Court, Court No. 1, Kaushambi has been passed by proper reasoning.

19. Accordingly, the revision lacks merit and is **dismissed**.

(Chawan Prakash,J.)

January 7, 2026
Rmk.