



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 605/2017

1. Rajni Soni, Wife Of Shri Rajesh Soni
2. Rajesh Soni, Son Of Shri Bhagirath Soni
3. Mohini Devi, Wife Of Shri Bhagirath Soni
4. Bhagirath Soni, Son Of Shri, All Residents Of Himmatsar, Police Station Nokha, District Bikaner.

----Petitioners

Versus

1. The State Of Rajasthan
2. Bhagwan Ram, S/o Shri Purkha Ram, Resident Of Himmatsar, Police Station Nokha District Bikaner.

----Respondents

For Petitioner(s) : Mr. Sanjay Mathur
Ms. Ruchita Mathur

For Respondent(s) : Mr. Devendra Deelu for
Mr. Mahaveer Bishnoi
Mr. Surendra Bishnoi,AGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable-

05/02/2026

1. By way of filing the instant revision petition, the petitioners have assailed the order dated 13.04.2017 passed by learned District Judge Cadre, learned Additional Sessions Judge (Women Atrocities Cases), Bikaner in Sessions Case No. 51/2014 (State vs. Deepak Soni), whereby the learned trial Court has partly allowed the application under Section 319 Cr.P.C. filed by the complainant and has proceeded to take



cognizance against the petitioners for the offence under Section 498-A IPC. The impugned order is assailed as being illegal, arbitrary and unsustainable in the eyes of law, having been passed without appreciating the settled legal principles governing the exercise of powers under Section 319 Cr.P.C., and in the absence of any strong, cogent and convincing evidence warranting the summoning of the petitioners as additional accused.

Facts of the Case

2. That the facts giving rise to the present revision petition are that on 02.07.2014, the complainant Bhagwan Ram lodged a written report alleging that his daughter Santosh, who had been married to Deepak for about ten years and was blessed with three daughters, was residing in her matrimonial home in a joint family with her husband, father-in-law Bhagirath, mother-in-law, brother-in-law Rajesh and his wife Rajni. It was alleged that Deepak and his father were habitual gamblers and had incurred financial losses, due to which, for the preceding 2-3 months, Santosh was allegedly subjected to pressure and harassment by her husband and in-laws for bringing a sum of ₹5 lakhs from her parental home. It was further stated that despite assurances given by the complainant to make efforts to meet the demand, the pressure allegedly continued. On the morning of 02.07.2014, information was received through a relative that Santosh had





been found hanging, whereafter the complainant reached the hospital and saw her dead body in the mortuary, alleging that she had been beaten, murdered and subsequently hanged to give the incident the colour of suicide.

3. On the basis of the said report, a case was registered under Sections 302, 498A and 143 IPC and investigation commenced. Upon completion of investigation, including multiple rounds thereof, the police filed a charge-sheet only against Deepak, finding no material against the remaining family members. The case was committed for trial to the Court of the learned Additional Sessions Judge (Women Atrocities Cases), Bikaner, where charges were framed against Deepak and trial proceeded. During the course of trial, after recording statements of the complainant and other witnesses, an application under Section 319 Cr.P.C. was moved seeking summoning of the remaining family members for offences under Sections 498A, 323, 302 and 201 IPC. The said application was opposed by the proposed accused. However, vide order dated 13.04.2017, the learned trial court partly allowed the application and took cognizance against the present petitioners only for the offence under Section 498A IPC, which order is assailed in the present revision petition.
4. Heard learned counsels present for the parties and gone through the materials available on record.





Observations and Reasons

5. This Court has heard learned counsel for the parties at considerable length and has carefully perused the entire material available on record, including the First Information Report, statements recorded during investigation under Section 161 Cr.P.C., the charge-sheet submitted after investigation, the evidence recorded by the learned trial Court post framing of charges, and the impugned order passed under Section 319 Cr.P.C. The controversy at hand lies within a narrow compass, yet the legal principles governing it are of profound importance.

6. The jurisdiction under Section 319 Cr.P.C. is not a routine procedural power; it is an extraordinary enabling provision, conferring upon the Court a discretionary authority to summon a person not arrayed as an accused if it appears from the evidence that such person has committed any offence for which he could be tried together with the accused. The amplitude of this power is wide, yet its exercise is circumscribed by judicially evolved safeguards, for the law does not permit the summoning of a citizen to face a criminal trial on tenuous or speculative grounds. Criminal law, being coercive in nature, demands strict adherence to evidentiary thresholds and procedural fairness.

7. The Constitution Bench of the Hon'ble Supreme Court in ***Hardeep Singh v. State of Punjab AIR 2014 SUPREME***





COURT 1400 has exhaustively delineated the contours of Section 319 Cr.P.C. It has been held therein that the power is discretionary and extraordinary, to be exercised sparingly and only in those cases where the evidence recorded during trial discloses more than a mere prima facie case. The degree of satisfaction required at this stage is higher than that necessary for taking cognizance at the threshold, at the time of submission of the charge-sheet or upon completion of inquiry in a complaint case, though it falls short of that required for conviction. The Court must be satisfied that there exists strong and cogent evidence against the person sought to be summoned, such that, if unrebutted, it may reasonably lead to conviction. The Constitution Bench cautioned that the Court must refrain from acting on the basis of conjectures, vague allegations or the mere ipse dixit of a witness without substantive corroboration. The principle that emerges is that the power under Section 319 Cr.P.C. is not to be invoked as a matter of course, nor to compensate for investigative deficiencies, but only where compelling circumstances warrant the addition of a new accused.

8. The said principles have been reiterated and refined in ***Sukhbeer Singh Khaira v. State of Punjab (2023) 1 SCC 289*** , wherein the Hon'ble Supreme Court emphasised that while the power under Section 319 Cr.P.C. is meant to ensure that real offenders do not escape trial, it must not be exercised in a manner that undermines the safeguards of





criminal jurisprudence. The Court underscored that the test is not whether some evidence exists, but whether the evidence is of such quality and weight that it indicates the probable involvement of the proposed accused in the commission of the offence. The summoning order must reflect due application of mind and conscious satisfaction that the evidence meets the elevated threshold prescribed by law.

9. Applying the aforesaid principles to the facts of the present case, this Court finds that the marriage between the deceased Santosh and accused Deepak had been solemnised nearly ten years prior to the unfortunate incident. Out of the wedlock, three daughters were born. The deceased resided in a joint family household comprising her husband, father-in-law Bhagirath, mother-in-law Mohini, brother-in-law (*Jeth*) Rajesh and sister-in-law (*Jethani*) Rajni. The allegations in the FIR and subsequent statements consistently indicate that the husband Deepak and father-in-law Bhagirath were allegedly facing financial constraints owing to gambling losses and that they had demanded a sum of ₹5 lakhs from the parental family of the deceased. The gravamen of the accusation, as discernible from the earliest version, centres upon the husband and father-in-law.

10. A careful examination of the statements of the complainant Bhagwan Ram and other witnesses reveals that while there





are allegations of cruelty and harassment in connection with the alleged monetary demand, the specific acts attributed with clarity and consistency are confined substantially to Deepak and Bhagirath. The assertions against Rajesh (*jeth*), Rajni (*jethani*) and Mohini (*Saas*) are couched in general expressions that “all in-laws used to harass” the deceased. However, no specific overt act, date, instance, conversation or independent conduct is delineated with respect to these three individuals. The law is well settled that in offences under Section 498-A IPC, omnibus and sweeping allegations against every relative of the husband, without precise attribution of role, do not satisfy the threshold required for criminal prosecution.

11. It is also not without significance that during investigation, carried out in more than one round, the investigating agency, after evaluating the available material, chose to file charge-sheet only against Deepak and found no material sufficient to prosecute the remaining family members. While it is true that the opinion of the investigating agency does not bind the Court, and that the Court may independently exercise powers under Section 319 Cr.P.C., yet the investigative conclusion remains a relevant circumstance in assessing whether the evidence recorded during trial truly crosses the higher evidentiary threshold contemplated by the Constitution Bench in **Hardeep Singh (supra)**. The Court must be cautious not to convert the extraordinary power





under Section 319 into an appellate review of investigative discretion unless compelling evidence surfaces during trial.

12. The matrimonial life of the deceased having extended over a decade, and there being no prior complaint or documented grievance during such prolonged cohabitation, constitutes a relevant factual circumstance. While absence of prior complaint is not conclusive proof of absence of cruelty, it is nonetheless a factor that weighs in judicial evaluation, particularly when the allegations against certain relatives lack specificity. Criminal liability cannot be inferred on the basis of mere presence in the matrimonial home. The maxim ***actus non facit reum nisi mens sit rea*** reminds us that criminality attaches to intentional conduct, not to passive familial association.

13. Upon a cumulative and holistic appreciation of the entire evidence recorded thus far, this Court finds that the material against Rajesh (*Jeth*), Rajni (*Jethani*) and Mohini (*Saas*) does not rise above the level of generalised accusation bereft of substance. The evidence, even if taken at its face value, does not disclose strong and cogent material sufficient enough to array them as an additional accused to be tried together with accused Deepak. The summoning of these petitioners, therefore, does not withstand judicial scrutiny under the rigorous standard laid down in Hardeep Singh (*supra*) and reaffirmed in Sukhbeer Singh Khaira (*supra*).





The impugned order, to that extent, suffers from legal infirmity and warrants interference in revisional jurisdiction.

14. Consequently, the revision petition is partly allowed. The impugned order dated 13.04.2017 is set aside insofar as it relates to petitioner Nos. Rajesh, Rajni and Mohini. They stand discharged from the proceedings arising out of the impugned summoning order under Section 498-A IPC. Insofar as petitioner Bhagirath is concerned, learned counsel for the petitioners has not pressed the revision petition on his behalf, so instant petition stands dismissed to his extent only.

15. It is pertinent to note that the learned trial Court has taken cognizance against Bhagirath for the offence under Section 498-A IPC only and not for the offence under Section 302 IPC. The maximum punishment prescribed under Section 498-A IPC is three years. Therefore, the mandate of the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar (2014) 8 SCC 273***, as well as the safeguards embodied in Sections 41 and 41-A Cr.P.C. (*corresponding to section 35 BNSS*), squarely apply.

16. It is further observed that during investigation, an independent agency had not found sufficient material to prosecute Bhagirath. In view of the limited nature of the offence for which cognizance has been taken, and considering the statutory safeguards applicable, the





petitioner Bhagirath is directed to appear before the learned trial Court on or before 30th March. Upon his appearance and filing of an application for regular bail, the learned trial Court shall consider and decide the same on the same day, and he shall be released on bail upon furnishing appropriate bail bonds, subject to usual conditions.

17. Before parting, this Court also notes with concern that the record of the case appears to have been summoned without there being any specific judicial order directing the same. Procedural discipline is the backbone of criminal adjudication, and records cannot be requisitioned except in accordance with lawful orders. The record be transmitted back forthwith. The learned trial Court is directed to expedite the proceedings and endeavour to conclude the trial at the earliest, in accordance with law.

(FARJAND ALI),J

195-Mamta/-

