



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 1605/2021

1. Mangtu Ram S/o Sh. Chunaram Saini, R/o P. No. 132, K.V.A. In front of Gali of G.S.S. In Front of Gurudwara, Ward No. 20, Anoopgarh, District Shri Ganganagar.
2. Smt. Anita W/o Sh. Mangtu Ram Saini, R/o P. No. 132, K.V.A. In front of Gali of G.S.S in Front of Gurudwara, Ward No. 20, Anoopgarh, District Shri Ganganagar.

----Petitioners

Versus

1. State of Rajasthan, Through PP
2. Radhey Shyam Saini S/o Anandi Lal Saini, Resident of 132, Gulab Vihar, Rampura Road, Sanganer P.S. Muhana, Jaipur (South)

----Respondents

For Petitioner(s) : Mr. A.K. Gupta-Sr. Advocate with
Mr. Rinesh Gupta
Mr. Saurabh Pratap Singh
Mr. Ashutosh Singh Naruka
Mr. Gorang Agarwal
Mr. Pulkit Raj

For Respondent(s) : Mr. Jitendra Singh Rathore-PP
Dr. Shivendra Singh Rathore

JUSTICE ANOOP KUMAR DHAND

Order

27/03/2026

1. The instant misc. petition is listed before this Court in pursuance of the directions issued by the Hon'ble Apex Court in the case of **Vijay Kumar and Ors. Vs. State of Rajasthan** (Petition for Special Leave to Appeal (Crl.) No. 773/2026, decided on 15.01.2026), wherein the Hon'ble Apex Court observed that in various matters, interim orders have been passed in criminal revision petitions and petitions filed under Section 482 Cr.P.C., as





a result of which trial relating to serious offences such as murder, rape, dacoity, dowry death, etc., could not proceed and remained stalled/held up due to the passage of considerable time.

2. Directions have been issued to this Court and other High Courts to take up such like matters which are pending since long, on priority and decide the same expeditiously without deferring the hearings to subsequent dates.

3. By way of filing the instant petition, a challenge has been led to the impugned order dated 12.02.2021, passed by the Court of Additional District Judge, Woman Atrocity Cases, Jaipur Metro-II, by which the application submitted by the complainant-respondent No. 2 under Section 319 Cr.P.C. has been partly allowed and cognizance has been taken against the accused-petitioners for the offence under Sections 498A and 304B IPC.

4. Counsel for the petitioners submits that previous marriage of the deceased-Monika with her ex-husband was dissolved on the basis of their mutual consent. Subsequently, her second marriage was solemnized with the petitioners' son on 08.02.2015 and she resided at her matrimonial home for few days, however, since she was not feeling well, she visited her parental home on 14.02.2015. Thereafter, she returned to her matrimonial home on 15.02.2015 and in the meanwhile, she was treated by various Doctors, including those from the Mental Hospital, with regard to her mental health. Counsel submits that the deceased was suffering from Bipolar Disorder. Bipolar Disorder is a mental health condition that affects a person's mood, energy, ability to carry out





day-to-day activities. This disease is one of the leading causes of disability across the globe as it can affect many areas of life. He submits that the people with Bipolar Disorder may experience strained relationships, problems at school or work and difficulties in carrying out daily activities. Having Bipolar Disorder also increases the risk of committing suicide and developing anxiety and substance abuse disorders. Counsel submits that there is no evidence on record against the petitioners and the co-accused to show that they have in any manner harassed the deceased for demand of dowry soon before her death. Counsel submits that considering the overall facts and circumstances of the case, the police has submitted the chargesheet only against husband of the deceased and the petitioners have been rightly left out. Counsel submits that when the statement of father of the deceased (PW1-Radheyshaym) was recorded, the above narrated facts have been admitted by him and he has further admitted that she was under medical treatment with regard to her mental health and in this regard several documents were exhibited on record which reflect that she was mentally ill and was suffering from Bipolar Disorder. Counsel submits that if the deceased has committed suicide because of the aforesaid reasons, the petitioners are not responsible for the same. Counsel submits that all these facts have been overlooked by the learned Court below, while passing the impugned order and the same has been passed simply on the basis of the statements of the prosecution witnesses i.e. PW1-Radheyshaym, PW2-Kanchan Saini and PW3- Rohit Saini. Counsel submits that at the stage of exercising the power contained under





Section 319 Cr.P.C., not only a prima facie case is required to be seen, rather much more is required to be seen on the basis of evidence so led against the accused person in order to ascertain whether there are chances of their conviction. Counsel submits that, based on the evidence available on record, the chances of conviction of the petitioners are bleak. In support of his contentions, counsel has placed reliance upon the judgment passed by Hon'ble Apex Court in the case of **Sarbjit Singh and Anr. Vs. State of Punjab and Anr.** reported in **AIR 2009 SC 2792**. Counsel submits that in aforesaid judgment, three stages have been discussed by the Hon'ble Apex Court i.e. (i) prima facie case; (ii) more than prima facie case; and (iii) chances of conviction. But all these facts have not been taken into count by the learned Court while passing the impugned order, hence interference of this Court is warranted.

5. Per contra, learned Public Prosecutor opposes the arguments raised by counsel for the petitioner and submits that marriage of the deceased was solemnized with the petitioners' son on 08.02.2015 and she passed away under unnatural circumstances on 24.03.2015, i.e. within a short span time of one and half months after solemnization of marriage. He submits that no such evidence is available on record to show that the deceased was suffering from Bipolar Disorder before committing suicide. He further submits that a suicide note was written by the deceased wherein allegations have been levelled against her in-laws stating that they have spoiled her life and they should not be allowed to escape. Counsel submits that a clear and specific allegation with





regard to dowry harassment has been levelled against the petitioners and co-accused persons by the three prosecution witnesses namely PW1-Radhyeshaym, PW2-Kanchan Saini, PW3-Rohit Saini who happen to be the parents and brother of the deceased respectively. Counsel submits that considering the overall facts and circumstances of the case, the Court below has rightly exercised its power contained under Section 319 Cr.P.C. and has rightly taken cognizance against the petitioners under Sections 498A and 304B IPC by passing a reasoned and cogent order which does not require any interference of this Court and the present petition is liable to be rejected.

6. Heard and considered the submissions made at Bar and perused the material available on record.

7. Perusal of the impugned order indicates that marriage of the deceased was solemnized with the petitioners' son on 08.02.2015 and she passed away under unnatural circumstances on 24.03.2015 while committing suicide by hanging. This fact is not in dispute that the aforesaid incident did not occur at the matrimonial home but at the parental home of the deceased.

8. Now, the question which remains for consideration before this Court is as to whether there is any involvement of the petitioners in the aforesaid act which has occurred on the fateful day i.e. 24.03.2015?

9. As per the allegations levelled against the petitioners by three prosecution witnesses namely PW1-Radheyshaym, PW2-Kanchan Saini and PW3- Rohit Saini who have categorically stated in their statements that immediately after marriage of the deceased, the petitioners as well as co-accused persons started





torturing and misbehaving with the deceased for not bringing sufficient dowry.

10. It is worthy to note here that marriage of the deceased was solemnized on 08.02.2015 and she passed away while committing suicide by hanging on 24.03.2015, i.e. after a very short span of time of hardly one and a half months since solemnization of her marriage with the petitioners' son. Though, an argument has been raised by counsel for the petitioners that the deceased was suffering from Bipolar Disorder but no such evidence has been placed on record of the Trial Court. Rather, certain documents have been produced, i.e. Exhibit D2 to D11, which indicate that the deceased was under treatment of several Doctors, including those at Mental Hospital.

11. Whether the aforesaid disease suffered by the deceased before the date of commission of suicide, was the reason for commission of suicide or not. This fact cannot be adjudicated by this Court, at this stage, while exercising its jurisdiction contained under Section 482 Cr.P.C. This fact would be appreciated by the Trial Court at appropriate stage of the trial. However, the statements of PW1 to PW3 reveal allegations against the petitioners that they demanded dowry and tortured the deceased for bringing insufficient dowry, which is sufficient to proceed against them for commission of offences under Sections 498A and 304B IPC.

12. This Court cannot lose sight of the fact that even a suicide note was seized by the Investigating Officer, during the course of investigation, wherein it was written by the deceased, as under:-





**"Mummy Sasural Walon Ne Meri Zindagi Barbad Kardi,
Unhe Chhodana Mat".**

13. This suicide note has been sent to the FSL for analysis to ascertain whether the same has been written by the deceased or not. According to this Court, even this piece of evidence would be appreciated by the Trial Court at the appropriate stage of the trial.

14. Section 319 Cr.P.C. deals with the procedure of summoning the additional accused to face trial who has been left out by the police and not charge-sheeted along with the other accused persons. Section 319 Cr.P.C. reads 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 the 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."





Sub-section (1) of Section 319 Cr.P.C. leaves it to the judicial discretion of the Court, where the trial is proceeding to summon a person as an accused (who has been left by the police), if the evidence has appeared before the Court that such a person has committed an offence for which he should be tried together with the other accused.

15. The entire purpose of criminal trial is to go to the truth of the matter. Once there is satisfaction of the Court that there is evidence before it that an accused has committed an offence, the court can proceed against such a person. At the stage of summoning an accused, there has to be a prima facie satisfaction of the Court. The evidence which was there before the Court was of an eye witness who has clearly stated before the Court that a crime has been committed, inter alia, by the petitioners. The Court need not cross-examine this witness. It can stop the trial at that stage itself if such application had been moved under Section 319. The detail examination of the witness and other witnesses is a subject matter of the trial which has to begin afresh. The scope and ambit of Section 319 CrPC has been discussed and dealt with in detail in the Constitution Bench judgment of **Hardeep Singh v. State of Punjab and Others** reported in **(2014) 3 SCC 92** where it said:

“12. Section 319 CrPC springs out of the doctrine *judex damnatur cum nocens absolvitur* (Judge is condemned when guilty is acquitted) and this doctrine must be used as a beacon light while explaining the ambit and the spirit underlying the enactment of Section 319 Cr. PC.



13. It is the duty of the court to do justice by punishing the real culprit. Where the investigating agency for any reason does not array one of the real culprits as an accused, the court is not powerless in calling the said accused to face trial."



16. In **Hardeep Singh** (supra), this court further said that the Court only has to see at the state of Section 319, whether a prima facie case is made out although the degree of satisfaction has to be much higher.

"95. At the time of taking cognizance, the court has to see whether a prima facie case is made out to proceed against the accused. Under Section 319 CrPC, though the test of prima facie case is the same, the degree of satisfaction that is required is much stricter. A two-Judge Bench of this Court in *Vikas v. State of Rajasthan*, held that on the objective satisfaction of the court a person may be "arrested" or "summoned", as the circumstances of the case may require, if it appears from the evidence that any such person not being the accused has committed an offence for which such person could be tried together with the already arraigned accused persons.

In Para 106 it is stated as under:

Thus, we hold that though only a prima facie case is to be established from the evidence led before the court, not necessarily tested on the anvil of cross examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. In the absence of such satisfaction, the



court should refrain from exercising power under Section 319 CrPC. In Section 319 CrPC the purpose of providing if "it appears from the evidence that any person not being the accused has committed any offence" it is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the court acting under Section 319 CrPC to form any opinion as to the guilt of the accused."



17. In the considered opinion of this Court, at this stage more than prima facie case is required to be seen against the accused not charge-sheeted. The merits and the defence of the accused cannot be appreciated at this initial stage of taking cognizance. The defence, so put by the accused, with regard to their false implication would be taken into account by the Trial Court at the appropriate stage of trial. There is much more prima facie evidence available on the record for summoning them to face the trial.

18. Considering the overall facts and circumstances of the case and the evidence available on record, this Court is of the considered opinion that there is more than a prima facie case to proceed against the petitioners under Sections 498A and 304B IPC. At this stage, this Court cannot observe or arrive at a definite finding that on the basis of the evidence available on record, whether there are chances of conviction of the petitioners or not. If such a finding is given by this Court, at this stage, it would certainly affect the case of either party i.e. the prosecution or the defence.



19. This Court finds no substance in the instant misc. petition and the Court below has not committed any error in passing the impugned order, which warrants any interference of this Court and accordingly, the present misc. petition stands dismissed. The stay application and any other application pending, if any, also stand dismissed.

20. However, looking to the fact that arrest warrants have been issued against the petitioners who are parents-in-law of the deceased and their custodial arrest is not required, this Court deems it just and proper to convert the same intoailable warrants, in case the petitioners appear before the Trial Court on or before 27.04.2026. The Trial Court is directed to release them on bail, after taking their personal and surety bonds, subject to its satisfaction.

21 All observations made hereinabove are confined to the present adjudication under Section 319 Cr.P.C. and the same shall not influence the final appreciation of evidence by the Trial Court.

(ANOOP KUMAR DHAND),J

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