

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 737/2017  
(Arising out of Special Leave Petition(Crl.) No(s). 7702/2014)

PRAMOD KUMARI @ PREMA DEVI AND ORS.

APPELLANT (s)

VERSUS

STATE OF UTTAR PRADESH AND ANR.

RESPONDENT (s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

The trial is going on in First Information Report No. 333 of 2004 (FIR), which was registered at Police Station, Maudaha, Hamirpur, Uttar Pradesh under Sections 498A, 304B, 506 of the Indian Penal Code, 1860 (IPC) read with Sections 3 and 4 of the Prohibition of Dowry Act. On the basis of the aforesaid FIR, the husband, father-in-law and mother-in-law of the deceased were made accused. After investigation, the charge sheet was filed against them and the Trial Court framed the charges under the aforesaid provisions. The trial is proceeding and it is at the stage of examination of prosecution witnesses. We are informed that most of the prosecution witnesses are examined.

In the charge sheet, insofar as these appellants, who are sister-in-law and brothers-in-law of the deceased are concerned, they were not made parties. However, after depositions of the father and brother of the deceased, an application under Section 319 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was filed for summoning the appellants as well on the ground that they have demanded the dowry from the deceased in the sum of Rs. 1 lakh and have also threatened that she would be killed if the dowry sum is not given. Influenced by the oral statement of the aforesaid witnesses, the Trial Court passed the order allowing the application and summoning the appellants, which order has been upheld by the High Court as well.

After going through the records, we find no material against these appellants. Insofar as appellant no. 1, sister-in-law of the deceased is concerned, she had already been married at the time of marriage of the deceased with her brother. Learned counsel for the respondent/complainant was not denying the aforesaid fact. In these circumstances, the question of participation of sister-in-law (appellant no.1) is doubtful. Similarly, insofar as appellant no. 2 & 3 (brothers-in-law) are concerned, we do not find any cogent material to proceed against them. It may be worth to note that when the charge sheet was filed, these appellants were not named. It is a well settled principle laid down by a Constitution Bench of this Court in Hardeep Singh vs. State of Punjab & Ors. (2013) 3 SCC 92, that in an application under Section 319 Cr.P.C., more than prima facie case has to be established for summoning of such person during trial who had not been made accused at the time of filing of

the charge sheet. That ingredient is lacking in this case.

We, therefore, allow this appeal and set aside the order of the courts below against the appellants passed under Section 319 Cr.P.C.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
APRIL 17, 2017.

ITEM NO.42

COURT NO.8

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7702/2014  
(Arising out of impugned final judgment and order dated 07/04/2014  
in CRR No. 1007/2014 passed by the High Court Of Judicature at  
Allahabad)

PRAMOD KUMARI@PREMA DEVI AND ORS.

Petitioner(s)

VERSUS

STATE OF UP AND ANR.

Respondent(s)

(WITH APPLN. (S) FOR EXEMPTION FROM FILING O.T. AND STAY AND OFFICE  
REPORT)

Date : 17/04/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Uday Prakash Yadav, Adv.  
Mr. Nasir Husain, Adv.  
Dr. Kailash Chand, Adv.

Mr. Gurpreet Singh, Adv.  
Mr. Bakul Jain, Adv.  
Mr. Mukesh Jain, Adv.

For Respondent(s) Mr. Yoginder Handoo, Adv.  
Mr. Nishant Kumar, Adv.  
Mr. Nikhil Bhat, Adv.  
Mr. Rajesh Maurya, Adv.

Mr. Gopal Singh, Adv.  
Ms. Vimla Sinha, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(Ashwani Thakur)  
COURT MASTER

(Mala Kumari Sharma)  
COURT MASTER

(Signed order is placed on the file)