

(2012) 06 KAR CK 0051
In the Karnataka High Court
Case No : Criminal Petition No. 4900 of 2009

Smt. Subbamma

APPELLANT

Vs

State of Karnataka and Sri. Kariyappa

RESPONDENT

Date of Decision : 04-06-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 319

Citation : (2012) 06 KAR CK 0051

Hon'ble Judges : Subhash Badi, J

Bench : Single Bench

Advocate : M.R. Nanjundegowda, For M.R. Nanjundegowda and Assts, for the Appellant; Vijaya Kumar Majage, HCGP For R1, for the Respondent

Judgement

Subhash Badi

1. This petition is by the proposed accused No. 4 in CC No. 2236/2007 on the file of Additional Chief Judicial Magistrate, Bangalore. Initially charge sheet was filed against accused No. 3 on the ground that there is no material against accused No. 4. During the course of recording of evidence PW Nos. 1 and 3, it reveals that the petitioner-accused is also involved by invoking Section 319 of Cr.P.C. The learned trial Judge even before the witness is cross examined. The trial Judge has invoked the provisions of the Section 319 Cr.P.C. which does not amount to consideration of the evidence.

2. This aspect of the matter is covered by the decision of this Court in 2005 CrL.L.J.3699 in the case of Veeramadaiah and others Vs. State of Karnataka about summoning of new accused and the procedures to be adopted. The issue of summons is concerned learned Magistrate should complete recording of the evidence and after the recording of evidence, based on the evidence he should consider, whether there is need for addition of accused as per Section 319 of Cr.P.C.

Accordingly petition is partly allowed, impugned order is quashed, liberty is

reserved to the learned trial Judge to consider the application for adding accused after the evidence is recorded.