

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-20722 of 2015

Date of decision:1.7.2015

Dr. Paramjit Singh

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

*** * ***

Present: Mr. Aakash Singla, Advocate for the petitioner(s).

DARSHAN SINGH, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C') for quashing the order dated 22.10.2014 vide which the application filed by the petitioner under Section 319 Cr.P.C for summoning respondents No.3 and 4 as an additional accused in case FIR No.544 dated 3.12.2009 under Sections 451, 447, 511, 323, 427, 506, 34 of the Indian Penal Code (hereinafter called the 'IPC'), P.S. Kotwali, Patiala has been dismissed and for quashing the order dated 2.5.2015 passed by the learned Additional Sessions Judge, Patiala, dismissing the revision petition against the aforesaid order.

Learned counsel for the petitioner contended that the names and the role played by respondents No.3 and 4 are categorically mentioned in the statement made by petitioner-Dr.Paramjit Singh during the trial as well as in the statement of PW-2 Harish Kumar Singla, the witness of the occurrence. He contended that in view of their statements, respondents No.3 and 4 are also required to be summoned as an additional accused to

face the trial along with the original accused. He contended that learned trial Court has illegally ignored the statements of the aforesaid witnesses recorded in the Court.

I have duly considered the aforesaid contentions.

I do not find any illegality in the impugned orders. The present case was registered on the statement of petitioner-Dr. Paramjit Singh. In the FIR recorded on his statement, the names of respondents No.3 and 4 are not mentioned at all. Only name of respondent No.2-Gagandeep Singh is mentioned. It is further mentioned that he was accompanied with 3-4 boys who entered in the office of the petitioner and assaulted him and also directed him to vacate the shop otherwise he will be killed.

The observations mentioned in the impugned orders have not been assailed at Bar before this Court that respondents No.3 and 4 are closely related to the present petitioner. Respondent No.3-Mohinder Singh is his brother-in-law (Jija) and respondent No.4-Rajwinder Singh is the son-in-law of his sister. So, both of them were closely related to the petitioner. It has also come in the statement of the petitioner that the civil litigation between him and respondent No.3 is going on. So, respondents No.3 and 4 were well known to the petitioner but surprisingly their names have not been mentioned by him in the FIR as well as in the application Ex.DB moved by him to the police. Even though his statement Ex.PA, on the basis of which the FIR has been recorded, was recorded after delay of 24-25 hours. Their names have only been introduced for the first time by the petitioner and PW-2 Harish Kumar Singla while making their statements in the Court obviously with a view to implicate them in the present case. It is also not disputed that the civil litigation is going on between the parties with respect to the shop.

The Hon'ble Apex Court in case **Hardip Singh versus State**

of Punjab and others 2014(1) RCR (Criminal) 623 has laid down that the test which has to be applied for summoning the additional accused under Section 319 Cr.P.C. is more than prima facie as exercised at the time of framing of the charges but short of satisfaction to an extent that the evidence, if it goes unrebutted, would lead to conviction. As the statements of the petitioner and PW-2 Harish are based on total improvements, there is no explanation as to why their names were not mentioned in the FIR even though they were closely related to the petitioner. So, no case is made out for summoning of respondents No.3 and 4 as additional accused.

Consequently, there is no illegality in the impugned orders to warrant any interference by this Court while exercising the extra ordinary powers under Section 482 Cr.P.C. Resultantly, the present petition being devoid of merits is hereby dismissed.

July 01, 2015
ps

(DARSHAN SINGH)
JUDGE

