

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No. M-25187 of 2012 (O&M)
Date of Decision: 23.02.2015.**

Mahender

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Rajiv Doon, AAG, Haryana.

Mr. Parmod Parmar, Advocate
for respondents No. 2 and 3.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the order dated 28.4.2012 whereby revision petition filed by respondents No. 2 and 3, was allowed by the Court of Revision and order passed by the Trial Court under Section 319 Cr.P.C. summoning respondents No. 2 and 3 as additional accused, was set aside.

Learned counsel for the petitioner has submitted that specific injuries were attributed to respondents No. 2 and 3. Hence, the Trial Court had rightly allowed the application moved by the prosecution under Section 319 Cr.P.C. for summoning respondents No. 2 and 3 as additional accused. Respondent No. 2 had inflicted a stick blow on the forehead of the petitioner

whereas respondent No. 3 had given a fist blow on the face of the complainant.

Learned counsel for respondents No. 2 and 3, on the other hand, has opposed the petition and has submitted that the said respondents were old persons. In fact, respondents No. 2 and 3 owned land in village Siwani. Earlier, the land had been given for cultivation purposes to the petitioner and later it was given to accused Harchand for cultivation purposes. A dispute arose between Harchand and the petitioner and petitioner was facing criminal case qua injuries caused to Harchand and others. Respondents No. 2 and 3 were residing in Patna since the year 1974 and had been falsely involved in this case merely because they were the owners of the land in question. Respondents No. 2 and 3 had been found innocent during investigation. In civil litigation pending between the petitioner and accused Harchand, it was the case of the petitioner that respondents No. 2 and 3 were residing in Patna since the year 1974.

Case of the petitioner, as per the FIR, in brief, was that on the day of occurrence, he had been attacked by respondents No. 2 and 3 and their co-accused. Accused Harchand had caught hold of the complainant from the back whereas accused Sombir had caught hold of the complainant from his hand and accused Jaibir had caught hold of the fingers of right hand of the complainant and had chewed the same. Respondent No. 2 had given a stick blow on the right side of the forehead of the complainant whereas respondent No. 3 had given a fist blow on the face of the complainant.

However, during investigation, respondents No. 2 and

3 were found innocent and challan was presented against accused Harchand, Sombir and Jaibir.

During the pendency of the trial, an application was moved by the prosecution for summoning respondents No. 2 and 3 as additional accused to face the trial along with the accused who were already facing the trial. The application was allowed by the Trial Court vide order dated 2.11.2010. However, the said order was set aside in revision vide impugned order dated 28.4.2012.

During the course of arguments, it has transpired that the Trial Court has ordered the conviction and sentence of accused Harchand, Sombir and Jaibir vide judgment/order dated 18.2.2013/19.2.2013 qua commission of offence punishable under Section 323, 326, 34 IPC.

Respondents No. 2 and 3 are more than 70 years old. Admittedly, they are the owners of the land in question. Civil litigation is pending between accused Harchand and the petitioner. In fact, earlier respondents No. 2 and 3 had given their land for cultivation purposes to the petitioner and later the same was given to accused Harchand. From the cross-examination of the petitioner Annexure P-3, it is evident that petitioner is facing criminal proceedings qua injuries caused by him to Harchand and others. He also admitted that case relating to the land, was also going in the Court. Petitioner denied the suggestion that he had taken forcible possession of the land and had caused injuries to Harchand. It appears that the dispute, in fact, is between the petitioner and Harchand and respondents No. 2 and 3 were involved in the case as they were the owners of

the land in question. The accused who had faced trial, have since been, convicted and sentenced by the Trial Court. The Court of Revision allowed the revision filed by respondents No. 2 and 3 on the ground that the said respondents were old persons and had been falsely involved in the case.

In the facts and circumstances of the present case, the Court of Revision had rightly ordered the dismissal of the application under Section 319 Cr.P.C. filed by the prosecution to summon respondents No. 2 and 3 as additional accused.

Hence, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

February 23, 2015
Gurpreet