

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

CRM-M No.3679 of 2015 (O&M)

Date of decision:18.03.2015

Trilok @ Monu

... Petitioner

Vs.

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. S.P. Chahar, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of the orders dated 17.04.2014 (Annexure P-1) and 21.11.2014 (Annexure P-2) passed by the learned ACJM, Jhajjar and Additional Sessions Judge, Jhajjar vide which the present petitioner has been summoned as additional accused to face trial in case FIR No.81 dated 30.04.2010 under Sections 323/325/34 IPC registered at Police Station Salhawas, District Jhajjar.

Mr. S.P. Chahar, learned counsel appearing for the petitioner would argue that the power under Section 319 Cr.P.C. has to be exercised very sparingly and it is the duty of the Courts to apply stringent tests in relation thereto and one of the tests is that the Court should come to the reasonable conclusion on the basis of evidence before it, that the same is likely to lead to conviction. It is argued that the impugned orders cannot sustain as the same have been passed in routine manner. It has also been contended that the Courts below while summoning the petitioner as

additional accused have erred in overlooking the vital aspect that after registration of FIR, the matter had been thoroughly investigated by the police and the challan had been filed against the accused, namely, Sher Singh S/o Chhotu Ram, Birmati W/o Sher Singh and the present petitioner had been found innocent and as such, by mere repetition of the contents of the FIR by the complainant, namely, Om Parkash in the examination in chief would not attract the provisions of Section 319 Cr.P.C.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that no case for interference is made out.

The Hon'ble Supreme Court in the case of ***Hardeep Singh Vs. State of Punjab & another, 2014 (1) RCR (Criminal) 623*** had laid down the test for exercise of power under Section 319 Cr.P.C. and had held as follows:

“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.”

It has gone uncontroverted that complainant-Om Parkash got recorded DDR No.31 dated 10.04.2010 in which specific role had been attributed to the present petitioner, namely, Trilok @ Monu i.e. of having inflicted jelly blow and having caused injury over the little finger of right hand of the complainant-Om Parkash and having also inflicted brick injury on the person of injured Satbir. Even while appearing before the Court as

PW1, Om Parkash, specifically deposed with regard to the present petitioner i.e. Trilok @ Monu having inflicted two injuries upon the person of the complainant himself as also Satbir. The Courts below while passing the impugned orders have further noticed that the version of the complainant-Om Parkash and attribution of injuries to the present petitioner have prima facie found corroboration by the contents of MLR of the injured.

In the considered view of this Court, the test laid down for exercise of power under Section 319 Cr.P.C. in ***Hardeep Singh's case (supra)*** has been correctly applied while passing the impugned orders and the view with regard to summoning the present petitioner as an additional accused has been formed on valid and cogent basis.

No merit.

Petition stands dismissed.

18.03.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**