

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2402 of 2011 (O&M)

.....

Date of decision:2.2.2015

Nanu Singh

...Petitioner

v.

State of Haryana and others

Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Deepak Grewal, Deputy Advocate General, Haryana
for the respondent-State.

Mr. S.M. Sharma, Advocate for respondent No.2.

Mr. Sukhdeep Parmar, Advocate for respondents No.3 to 5.

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Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned order dated 10.9.2011 passed by the learned Sessions Judge, Yamuna Nagar, dismissing the application filed under Section 319 Cr.P.C. by the complainant through the Public Prosecutor.

It is mainly stated in the grounds of revision petition that the impugned order dated 10.9.2011 passed by the learned Sessions Judge,

Yamuna Nagar, dismissing the application filed under Section 319 Cr.P.C. by the complainant through the learned Public Prosecutor for summoning Jaswinder Singh, Rajinder Singh, Balbir Singh, Jagtar Singh and Naresh Kumar as additional accused to face trial along with other accused, is totally wrong, illegal, erroneous, unwarranted and against law and facts of the present case, thus liable to be set aside.

Notice of motion has been issued in this case.

Mr. Deepak Grewal, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State, Mr. S.M. Sharma, learned Advocate has appeared for respondent No.2 and Mr. Sukhdeep Parmar, learned Advocate has appeared for respondents No.3 to 5 and contested this petition.

I have heard learned counsel for the petitioners and learned Deputy Advocate General, Haryana for the respondent-State and learned counsel for the respondents and have gone through the record.

An application was filed before the learned Sessions Judge, Yamuna Nagar under Section 319 Cr.P.C. by the prosecution for summoning Jaswinder Singh, Rajinder Singh, Balbir Singh, Jagtar Singh and Naresh Kumar as additional accused to face trial along with other accused, namely, Harjeet Singh already facing the same for the offences under Sections 148, 307, 326, 506 and 149 IPC.

The brief facts of the case are that on 4.8.2009, the FIR has been registered on the statement of Harvinder Singh that he is son-in-law of Nanu Singh, who was having two sons, namely, Ranbir Singh (since

deceased) and accused Harjeet Singh from his first wife and Kulwinder Singh from the second wife as after the death of his first wife, he married again. He had given the land only to Ranbir Singh, but did not give any land to Harjeet Singh, as he was disowned by him. The relations between Nanu Singh's third son Kulwinder Singh and his wife Gurbinder Kaur were strained regarding which divorce petition was pending before the High Court for 4.8.2009, which was settled in a Panchayat on payment of ₹8 Lacs and the High Court adjourned the said case for 25.8.2009 for producing the draft of ₹8 Lacs, but the in-laws of Kulwinder Singh could not tolerate the said compromise. The complainant stated that on 4.8.2009, he along with his friend Jasbir Singh alias Jassi was present in the field of his father-in-law Nanu Singh, who was also sitting on the 'Hodi' (water tank) of the tube-well. At about 5.30 p.m., when he and Jasbir Singh were 1½ Killas away from the tube-well, Jaswinder Singh, Harjeet Singh, Rajinder Singh, Balbir Singh and Jagtar Singh reached the field of his father-in-law by a car, which was stopped at a distance of one Killa away from the tube-well. All the five accused went towards his father-in-law and attacked him with swords on which his father-in-law Nanu Singh raised hue and cry due to which he and Jasbir Singh rushed towards him and on seeing them, the accused went away after inflicting injuries with their swords. It is in the FIR that while running away from the spot, they threatened Nanu Singh. He saw Jaswinder Singh, Harjeet Singh and Jagtar Singh who were armed with swords.

The earlier application was filed under Section 319 Cr.P.C.

after the examination-in-chief of Nanu Singh and on 30.4.2010 which was withdrawn. Then on 1.6.2010, Harvinder Singh was examined and during his examination-in-chief, another application was filed, which was dismissed by the Court on 20.12.2010. Against that order, criminal revision petition was filed before this Court, which was dismissed as withdrawn with liberty to file a fresh application under Section 319 Cr.P.C. after taking into account the cross-examination of PW-1 and PW-2 and the statement of the doctor. Now, when the cross-examination of Nanu Singh-PW.1 and Harvinder Singh-PW.2 have been completed, this application has been filed. The Court held that in the complaint Ex.P.1 made to the Police by Harvinder Singh, he had mentioned the presence of five persons as culprits at the time of occurrence, but in this application as well as earlier application disposed of on 20.12.2010, the prosecution has named six persons to be culprits. In the FIR, the name of Naresh was not mentioned. Similarly, PW-2 had also not mentioned the name of Naresh. The Court further held that as per the complaint Ex.P.1 injured was attacked only with swords, which were held by Jaswinder Singh, Harjeet Singh and Rajinder Singh in their hands. It has not been mentioned as to what type of weapons were held by the other three alleged assailants, but he while appearing in the witness box as PW-2 has stated in the Court that at the time of occurrence, Balbir Singh was armed with 'Danda', Jagtar Singh and another boy were armed with rods. Similar is the statement of PW-1. Both of them have stated that all of them have caused injuries. PW-14 Jasbir Singh has also admitted and stated that the accused other

than Harjeet Singh, Jaswinder Singh and Rajinder Singh were having 'Dandas' like iron rods. There is no injury on the person of the injured with blunt weapon. The Court has correctly held that the injuries were with sharp edged weapon. Therefore, according to this version three persons who were having 'Dandas' or iron rods have not caused any injury. Again the Court has correctly held that the dispute was between Kulwinder Singh and his wife Gurbinder Kaur, which was fixed on 4.8.2009 and compromise has already been effected between both the sides before High Court and Kulwinder Singh had agreed to pay ₹8 Lacs to his wife Gurbinder Kaur and she accepted that offer and that amount was to be paid on the next date. Thus, in such a situation, it was highly improbable that the family members of Gurbinder Kaur would have participated in the commission of offence and caused injuries on complainant Nanu Singh to defeat the compromise which could not have been effected without the intervention of the parental side of Gurbinder Kaur. If they would have any grudge, they may not have agreed with the compromise. Similarly, there is no reason or ground that other persons, who have also enmity with the injured, to have connived together to cause injuries. After investigation, all other persons have been found innocent and only challan has been filed against Harjeet Singh.

A perusal of the impugned order passed by the learned Sessions Judge, Yamuna Nagar, is correct and as per law. It should appear to the Court that the persons who are to be summoned are involved in the commission of the offence. From the impugned order, I find that no

illegality has been committed by the Court below while passing the impugned order. The same is legal and as per law and is upheld.

Finding no merit in the present criminal revision petition, the same is dismissed.

February 2, 2015.

(Inderjit Singh)
Judge

hsp