

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-4976 of 2015

.....

Date of decision:18.2.2015

Sahun

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 5.7.2014 (Annexure-P.2) passed by learned Sub Divisional Judicial Magistrate, Ferozepur Jhirka, vide which the application moved under Section 319 Cr.P.C. by the petitioner for summoning the private respondents as additional accused in case FIR No.120 dated 3.6.2012 registered for the offences under Sections 148, 149, 323, 324, 326, 452 and 506 IPC at Police Station Ferozepur Jhirka, District Mewat, was dismissed and the impugned order dated 15.1.2015 passed by the learned Additional Sessions Judge, Mewat, vide which the revision petition filed against the above order, has been wrongly dismissed, being arbitrary, illegal and against law.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the challan has already been

presented against accused Rashid. The prosecution wanted to summon accused Hassan, Haruni, Jarina, Arshad, Asifa and Ratti under Section 319 Cr.P.C. as additional accused to face the trial with the remaining accused. All these accused have been named in the FIR, but during investigation, these accused, to whom the prosecution wanted to summon under Section 319 Cr.P.C., were found innocent and were kept in column No.2. A perusal of the record shows that the occurrence took place on 7.5.2012, medical examination was conducted on the same day and the Investigating Officer also went to get recorded the statements, but the complainant and injured refused to give their statements on that day and stated that they would make statements after deliberation. There is four days delay in recording the FIR, which on the face of it looks to have been got registered after due deliberations. Copy of the MLR of injured Sahun has been placed on record. Incised wounds were found on the right thumb only. The third injury was only swelling and pain over left elbow region. In this case, no injury under Section 325 IPC has been found. The injuries on the person of Bassan are two simple injuries which are swelling and pain. Keeping in view these injuries, it is clear that seven persons will not cause injuries only on the thumb and such type of injuries like swelling etc. which are simple injuries. One of the accused Ratti is stated to be about 75 years old. Two accused Arshad and Asifa were permanent residents of Trilokpuri, Delhi. The doctor has also opined that injuries No.1 and 2, which are on the thumb of right hand, could have been sustained by a friendly hand also.

Keeping in view these facts, I find that it does not appear from

[3]

the evidence on record that these persons have been involved in the commission of this offence and they should be summoned to face trial along with the accused already challaned.

Therefore, from the above, I find that the impugned order dated 5.7.2014 passed by learned Sub Divisional Judicial Magistrate, Ferozepur Jhirka, is correct and as per law. The impugned order dated 15.1.2015 passed by the learned Additional Sessions Judge, Mewat dismissing the revision petition is also as per law. No illegality has been committed by the Courts below. Therefore, the impugned orders passed by the Courts below are upheld. Otherwise also, the petitioner has already availed the remedy by way of revision petition and this petition under Section 482 Cr.P.C. has been filed in the guise of second revision. The second revision is not maintainable.

Therefore, from the above, I do not find any merit in the present petition and the same is dismissed.

February 18, 2015.

(Inderjit Singh)
Judge

hsp