

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

CRR-1609-2014

Date of Decision : 09.10.2015

Ravinder Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Surinder Singh Pannu, DAG, Haryana.

Mr. Navpreet Kohli, Advocate
for respondents No.2 and 4.

Mr. S.S.Antal, Advocate
for respondent No.3.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

The present revision petition has been filed against the impugned order dated 28.04.2014 passed by Additional Sessions Judge, Ambala declining the summoning of private respondents under Section 319 Cr.P.C. in FIR No.120 dated 21.09.2013 under Sections 302, 323, 506 IPC registered at Police Station Shahzadpur, District Ambala.

The main argument of learned counsel for the petitioner is that the impugned order could have been passed on the basis of evidence which may have come before the Court but while declining the application, the Court has gone beyond that and relied on the statements recorded under Section 161 Cr.P.C.

Learned counsel for the accused has argued that the Court has also gone into the detailed investigation concluded by the police to come to the conclusion that the persons now sought to be summoned were not present at the spot.

Be that as it may, once reliance has been placed on the statements under Section 161 Cr.P.C. it has to be held that the trial Court has not considered 'evidence' as envisaged by Section 319 Cr.P.C. I have also been informed that in this interregnum the second eye witness has also been examined. In the circumstances, I deem it appropriate to permit the petitioner to file a fresh application under Section 319 Cr.P.C. which shall be decided on merit by the trial Court.

Petition is disposed of.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

A copy of this order be handed over dasti to the learned counsel for the petitioner under the signature of the Bench Secretary.

09.10.2015

Pooja Sharma-I

(AJAY TEWARI)
JUDGE