

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1707 of 2014 (O&M)
Date of Decision: January 07, 2015

Naresh Kumar alias Bablu Chhabra and others

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navkiran Singh, Advocate
for the petitioners.

Mr.S.S.Chandumajra, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this revision petition under Section 401 Cr.P.C. against State of Punjab respondent challenging the impugned order dated 07.05.2014 passed by learned Addl. Sessions Judge, Jalandhar whereby the petitioners have been summoned as additional accused under Section 319 Cr.P.C. to face trial.

Notice of motion was issued and learned State counsel appeared and contested the petition and reply was also filed.

At the time of arguments, learned counsel for the petitioners argued that all the petitioners have been found innocent by the Special Investigating Team of three IPS Officers and the impugned order summoning the petitioners as additional accused under Section 319 Cr.P.C. is illegal and not as per evidence on the record. He

further argued that the mere statement of complainant is insufficient to summon the petitioners. He next argued that no role has been attributed to petitioner No.1 Naresh Kumar @ Bablu Chhabra and Dalip Kumar @ Bittu Chhabra in the occurrence. He further argued that even no weapon has been recovered from petitioner Prabhjot Singh and he has been falsely implicated in this case.

On the other hand, learned State counsel argued that all the petitioners were named in the FIR. *Lalkara* has been attributed to petitioners No.1 and 2 and petitioner No.3 is stated to be armed with a gun and role has also been attributed that he fired from the gun.

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

From the record, I find that all these petitioners are named in the FIR along with other co-accused. The report under Section 173 Cr.P.C. has been presented against Kuldeep Singh @ Mintu and Ravi Chhabra. The present petitioners though named in the FIR but after investigation, have been shown in column No.2 and were found innocent by the investigating agency and as per the report (Annexure P-5) of Special Investigating Team which was formed by order of this Court.

First of all, as regarding petitioners Naresh Chhabra @ Bablu Chhabra and Dalip Kumar @ Bittu Chhabra, though they are named in the FIR, only *lalkara* has been attributed to them and no other active role is attributed to them. There is nothing in the FIR to show that any injury was given by these petitioners. After the

investigation, both these petitioners have already been found innocent. No injury has been attributed to them. From the mere oral statement of only one PW, it cannot be held that it appears that they are involved in the occurrence and should face trial with the accused already facing the trial. The Special Investigating Team formed by order of this Court has also found them innocent and after investigation, their names have been shown in column No.2. Neither any injury is attributed to them nor they are stated to be armed with deadly weapons. Therefore, at this stage, from the facts and circumstances of the present case and from the evidence produced before the Court, it cannot be held that it appears to the Court that they are involved in the commission of the offence. Therefore, the revision petition filed by petitioners No.1 and 2 has merit and the same is allowed qua them. The impugned summoning order dated 07.05.2014 qua petitioners Naresh Chhabra @ Bablu Chhabra and Dalip Kumar @ Bittu Chhabra is set aside.

As regarding petitioner Prabhjot Singh, he is named in the FIR and he was stated to be armed with rifle/gun. There are also allegations that he has fired on the complainant side. PW-1 Shiv Nath Singh while appearing in the Court has also deposed regarding the same. Therefore, from the record, it appears that Prabhajot Singh is involved in the commission of the offence and there is sufficient evidence to summon him for facing trial along with co-accused. Specific role has been attributed to him. He was armed with deadly weapon and he fired from the gun.

In view of the above discussion, I do not find any merit in the revision petition filed by petitioner Prabhjot Singh and the impugned summoning order dated 07.05.2014 under Section 319 Cr.P.C. qua him cannot be held as illegal.

Therefore, the revision petition qua petitioners Naresh Chhabra @ Bablu Chhabra and Dalip Kumar @ Bittu Chhabra is allowed whereas it stands dismissed qua petitioner Prabhjot Singh.

January 07, 2015
Vgulati

(INDERJIT SINGH)
JUDGE