

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

CRR No. 1865 of 2014 (O&M)

Date of Decision: 03.09.2015.

Vinod Kumar

..... Petitioner

Versus

State of Haryana and Others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. R. A. Sheoran, Advocate
for the petitioner.

Mr. Rajiv Doon, AAG, Haryana
for respondent No. 1-State.

Mr. Narender Kajla, Advocate
for respondent Nos. 2 to 4.

JASWANT SINGH, J. (Oral)

Complainant-Vinod Kumar has filed the present criminal revision aggrieved by the order dated 31.05.2014, passed by the learned Additional Sessions Judge, Bhiwani, whereby the application of the prosecution under Section 319 Cr.P.C. for summoning of suspects Gugan Ram, Rajesh and Rakesh to face the trial as additional accused in case FIR No. 87, dated 24.05.2012, for commission of the offences under Sections 148, 149, 302, 506 and 120-B of IPC, Police Station Loharu, has been dismissed.

Learned Counsel for the petitioner/complainant has argued that the reliance by the trial Court on the result of the polygraph test to decline their summoning as additional accused is totally misconceived since one of the accused facing trial namely, Daya Kishan @ Daasa, had

also undertaken the same polygraph test and had successfully outsmarted the test, however, yet the Investigating Agency filed the challan against him and he is facing trial. It is thus submitted that the result of the polygraph test being a weak type of evidence cannot be made the basis for declining to summon additional accused under the provisions of Section 319 Cr.P.C.

Learned Counsel for the petitioner/complainant has next argued that the name of the aforesaid three suspects/accused finds mention in the FIR and has also in the testimony of the eye-witnesses and, therefore, they are liable to face trial as additional accused.

Learned Counsel for the respondents No.2 to 4/accused submits that although respondents No. 2 to 4 were named in the FIR, however, on due investigations, they were found innocent and place in Column No. 2 of the challan. Even during the evidence, the alleged eye-witnesses have only named them in consonance of the allegations in the FIR, however, no role has been attributed. It is further stated that the answering respondents being family members of the main accused-Sanjay @ Metro have been falsely implicated, keeping in view the trend of roping the family members of the accused-persons.

After hearing learned Counsel for the parties, this Court is not persuaded to accept the plea raised on behalf of the petitioner/complainant. It is well settled that the test for summoning persons as additional accused, the evidence on record should be more than *prima facie* and less than clinching evidence resulting into their conviction.

In the present case, the allegations made at the initial stage after due investigation were found to be incorrect, however, the same have been repeated like a parrot in the testimonies. There is no fresh material

which has come in evidence which would warrant summoning of respondent Nos. 2 to 4 as additional accused to face criminal trial, thus the view taken by the learned trial Court based on the material before it does not appear to be illegal or perverse in any manner, more so as to warrant interference by this Court.

In view of the above, the present petition stands dismissed.

September 03, 2015

'dk kamra'/Gagan

**(JASWANT SINGH)
JUDGE**