

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

CRM-M-2430-2015 (O&M)
Date of decision: 29.10.2015.

Mubarik

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Mohd. Arshad, Advocate,
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 15.05.2015, whereby he was ordered to be summoned to face the trial as an additional accused on an application moved by the prosecution under Section 319 of Criminal Procedure Code, 1973.

Learned counsel for the petitioner has submitted that the petitioner has been falsely involved in this case due to political rivalry.

Prosecution story, in brief, is that on 06.09.2013 at about 1:45 p.m. prosecutrix was returning home from her school. When she reached near the street of Bambu, petitioner and his co-accused met her. Petitioner closed the mouth of the prosecutrix with his hands whereas co-accused Anish caught hold of the prosecutrix from her hands and accused Lukman and Habbi caught hold the prosecutrix from her legs and tried to kidnap her. Accused misbehaved with the prosecutrix and tore her clothes. On hearing the alarm raised by the prosecutrix her father reached the spot and all the accused persons fled away from the spot.

After completion of investigation and necessary

formalities, challan was presented against the petitioner. During the pendency of the trial, prosecution moved an application for summoning the petitioner to face the trial as an additional accused.

Section 319 of Cr. P.C. reads as under:-

“Power to proceed against other persons appearing to be guilty of offence:-

- (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.
- (2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.
- (3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.
- (4) Where the Court proceeds against any person under sub-section (1), then-
 - (a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard.
 - (b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

Thus, as per the above provision, the Court has ample power to summon a person as an additional accused to face the trial with the accused already facing trial, if there is enough material on record to proceed against the said person.

Annexure P-1 is the statement of the prosecution recorded during trial. A perusal of the said statement reveals that

the petitioner has been specifically named by the prosecutrix and she has alleged that the petitioner had closed her mouth with his hands. Statement of the prosecutrix was corroborated by her father who appeared in the witness box as PW-2. Thus there was sufficient material available on record to summon the petitioner to face the trial as an additional accused.

In the facts and circumstances of the present case, no ground for interference by this Court, is made out.

Dismissed.

October, 29 2015

kapil

**(SABINA)
JUDGE**