

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 277 of 2014

Date of Decision : September 22, 2015

Balwinder Singh

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. S.S. Rana, Advocate
for the petitioner.

Mr. S.S. Brar, Additional Advocate General, Punjab
for respondent No.1-State.

None for respondent No.2.

T.P.S. MANN, J.

The petitioner, at whose instance FIR No.233 dated 15.10.2010 under Sections 452, 323, 427 IPC was registered at Police Station Shimlapuri, Ludhiana, has filed the present revision for challenging the order dated 6.11.2013 passed by the learned Additional Sessions Judge, Ludhiana whereby application filed by the Additional Public Prosecutor under Section 319 Cr.P.C. for summoning respondent No.2-Jagdev Singh as additional accused stands dismissed.

In the aforementioned FIR, Amarjit Singh and Jagdev Singh were named as accused and attributed infliction of injuries to the petitioner, besides damaging his car and at that time they were in drunken condition. During the investigation of the case, Jagdev Singh was found innocent and, accordingly, challan was presented only against Amarjit Singh. Said Amarjit Singh was, later on, charged for committing

offences punishable under Sections 452, 323 and 427 IPC, to which he

pleaded not guilty and claimed trial. The petitioner, thereafter, stepped into the witness box as PW1 and testified about the manner in which the occurrence had taken place. He also deposed about the involvement of Jagdev Singh as one of the accused in the commission of the crime. At that stage, the Additional Public Prosecutor filed application under Section 319 Cr.P.C. for summoning Jagdev Singh as additional accused, but the said application stands declined vide impugned order.

During the course of any enquiry into or trial of an offence, the Court, while invoking the provisions of Section 319 Cr.P.C. on finding that any person not being the accused has committed any offence for which such person could be tried together with the accused, may proceed against such person for the offence which he appears to have committed. However, in Krishnappa Vs. State of Karnataka, (2004) 7 SCC 678, the Hon'ble Supreme Court had held that the Court need not summon a person as additional accused and pass an order mechanically merely on the ground that some evidence had come on record implicating the person. In Michael Machado and another Vs. CBI and another, 2000 (2) RCR (Criminal) 75 (SC), it was held that the Court has discretionary power to summon a person as additional accused to stand trial. However, it is not enough that the Court entertained some doubt about his involvement in the offence. The Court must have reasonable satisfaction from the evidence already collected about the involvement of such person before he could be summoned as additional accused. In Mohd. Shafi Vs. Mohd. Rafiq and another, 2007(2) RCR (Criminal) 762 (SC), the Hon'ble Supreme Court, once again, made it abundantly clear

Section 319 Cr.P.C., it must arrive at the satisfaction that there exists possibility that the accused so summoned, is, in all likelihood, would be convicted.

In the present case, Jagdev Singh had apprised the investigating agency that he was not present at the time of alleged occurrence as on account of birth of a child to his daughter, he had gone to distribute sweets to the relatives. An enquiry was conducted by a senior police officer of the rank of IPS, who after taking notice of the telephonic locations found merit in the plea of Jagdev Singh and, accordingly, declared him to be innocent.

Once doubt had crept with regard to the involvement of Jagdev Singh in the commission of the crime, the trial Court was justified in declining to summon said Jagdev Singh as additional accused.

In view of the above, no case is made out for any interference in the impugned order.

The revision is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

September 22, 2015
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