

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

**CRR No.3033 of 2014
Date of Decision: 11.05.2015**

Mubin @ Mubeen

... Petitioner

Versus

State of Haryana and anr.

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sunil Panwar, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl, AG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

The petitioner is brother of deceased Ramjan and is
Author of FIR No.199 dated 18.05.2013 under Section 323,
506, 302, 34 IPC, Police Station Punhana, District Mewat.

The contents of FIR are reproduced here as under:-

*“Statement of Mubin son of Dhoop
Singh, Caste Meo, resident of Siroli, Police
Station Punhana, District Mewat, aged about 35
years, Telephone No.9813510013. Statec that I
am resident of the aforementioned address. I do
the work of agriculture. We are three brothers
and six sisters. My brother Ramjan is at number
two. On 17.05.2013 there was a marriage of a girl
in our family, wherein my brother Ramjan had
gone to take meals. At that place, Akhtiar son of
Nijjar Khan, who is also from my family, met and
immediately on coming, he gave abuses to my*

brother Ramjan. My brother asked as to why he was giving abuses to him. On being abused, he returned for home and in the way, at about 4 o'clock in the day time, Akhtiyar @ Akhtar, Afjal son of Akhtiya, Arju son of Akhtiyar came at once having lathis in their hands and immediately on coming, Akhtiyar and Afjal gave blows on the head of my brother Ramjan with their respective lathis. Ajru hit the stone held by him in his hand upon the left arm of Ramjan. Ramjan fell on the ground. Majji wife of Ramjan attempted to rescue her husband, whereupon she was also given injuries with stones by Mamli wife of Akhtiyar, Sehruna wife of Ajru, Sanowar d/o Akhtiyar, residents of Sirol. On hearing cries of killed-killed, I and Hasam son of Dina, Rahis son of Mehmood reached the spot and saved them from the assailants with great difficulty, failing which they would cause more injuries. I and Rahis son of Mehmood, Hassam son of Dina reached Government Hospital, Punhana for the treatment of my brother Ramjan and his wife Majji, where the doctor gave him first aid and referred him. On account of there being excessive injuries on the person of Ramjan s/o he was unconscious. For his treatment, he was got admitted in Spero Hospital, Palwal. He is under treatment. I have seen this occurrence with my own eyes. Statement got recorded, heard and the same is correct.

LTI Mubin".

Perusal of aforesaid FIR reveals that Ajru hit stone on the left arm of Ramjan. Ramjan fell on the ground. The

aforesaid attribution was duly pleaded in the statement under Section 161 Cr.P.C of Smt. Majji, eye-witness wife of deceased Ramjan. The statement of Majji has also been brought on record as Annexure P-4, perusal of which shows that Ajru hit on the left arm of the husband of Majji and he fell down. The receipt of injury has been found as a matter of fact as per medico legal report of Ramjan which was taken on 17.05.2013. Injury No.2 shows the following expression:

“Diffuse Swelling over the left forearm ventral aspect”.

The police investigated the case. At the time of report under Section 173 Cr.P.C the police has merely observed in the following manner:-

“ Juvenile Reformation Home, Faridabad. From the disclosure statements of the accused, the investigation of SI Karan Singh, secret/open disclosures made separately by respectable of the village and from my verification and investigation. Ajruddin s/o Akhtar, Mamli d/o Akhtar, Sanover d/o Akhtar and Seruna d/o Ajruddin were found to have been not present in the fight at the time of occurrence”.

In view of law laid down in **Hardeep Singh Vs. State of Punjab 2014 (1) RCR (Criminal) 323** in paragraphs 98-99 of the judgment, the evidence required for summoning of the accused should be just above the prima facie evidence required for framing of charges and just short for ultimate conviction.

In view of aforesaid, present case seems to be a case fulfilling the criterion fixed by **Hardeep** case (supra).

Consequently, impugned order dated 01.08.2014 is set aside. Revision petition is allowed.

Application under Section 319 Cr.P.C filed by the petitioner for summoning of respondent No.2 as additional accused to face trial stands allowed.

Parties are directed to appear before the trial Court on 14.05.2015.

May 11, 2015
prince

(RAJ MOHAN SINGH)
JUDGE