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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3195-2015 [O&M]

Date of Decision : November 27th, 2015

Amrit Pal Singh @ Mandeep Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Ms. Sushma Chopra, Advocate,
for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision petition against the order dated 28.07.2015 [Annexure P/3] passed by Additional Sessions Judge, Amritsar whereby application under Section 319 Cr.P.C. qua summoning of Harjit Singh and Satnam Singh, respondents No. 2 and 3 herein, in case bearing FIR No. 108 of 2014 under Sections 307, 323, 324, 325, 326, 341, 506, 148 and 149 IPC registered at Police Station Ramdas, as additional accused was dismissed.

Learned counsel for the petitioner mainly took the plea that on the date of occurrence, i.e., 13.9.2014, the petitioner was attacked by Lovepreet Singh, Harpal Singh, Onkar Singh and others alongwith 3 – 4

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unknown persons. He was caused injuries with dattar, base-ball because of previous inimical relations. Petitioner got recorded his statement. He was admitted in the hospital in injured condition as he was having as many as 17 injuries. Subsequently, he got recorded his supplementary statement on 28.9.2014 [Annexure P/2], thereby making specific allegations against Satnam Singh, Harjit Singh and Komalpreet Singh that they had caused injuries to him with *dang*. The investigating agency while conniving with accused persons submitted report with the observations that above named persons were found innocent during investigation.

The petitioner filed application under Section 319 Cr.P.C. before learned Additional Sessions Judge, Amritsar. Learned Trial Judge dismissed the application qua summoning of Harjit Singh and Satnam Singh, respondents No. 2 and 3 herein, but allowed the same for summoning Komalpreet Singh as co-accused for commission of offence punishable under Sections 307, 323, 324, 325, 326, 341, 506, 148 read with Section 149 IPC.

Learned counsel for the petitioner further submitted that the petitioner was having as many as 17 injuries. Earlier, the names of Harjit Singh and Satnam Singh could not be given in the first version as the petitioner was unconscious. Thereafter, he had got recorded his supplementary statement [Annexure P/2] while he was being treated in the hospital. Even at the time of initial version before the police, the petitioner had given names of accused persons, namely, Lovepreet Singh, Harpal Singh, Onkar Singh and also disclosed before the police that they were

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accompanied by 3-4 more persons. More so, the allegations against the accused persons were for commission of offence under Sections 148 and 149 IPC as well.

Learned State counsel urged that learned Trial Judge has already considered this matter and was of the view that there is no ground to summon Harjit Singh and Satnam Singh as co-accused. The discretion lawfully vested in the trial Judge to summon any body or not has been exercised judiciously by learned trial Judge as this power is to be exercised in exceptional cases and not in routine manner. More so, both the persons named in the application, i.e. Harjit Singh and Satnam Singh were found innocent during investigation. So, the present revision petition be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that certain facts are not disputed in any way. The alleged incident had taken place on 13.9.2014 and statement [Annexure P/1] of the petitioner was recorded immediately thereafter. Petitioner had given the names of accused persons and he was even in a position to make specific allegations against each individual accused, number of blows having been given by each individual accused and the weapon used by them individually. The petitioner has not named Harjit Singh and Satnam Singh at the time of initial version. It is not the case of the petitioner that he remained unconscious till 28.9.2014. The intervening period of 15 days, before recording of initial statement and supplementary statement, is most crucial and relevant. It has also come

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on the file that relations between the parties were inimical. These factors certainly create a doubt in the mind of the Court that the persons, who have been named in the supplementary statement, may be victim of inimical relations between the parties, but the law does not permit such inimical relations to distort the facts so as to rope-in some innocent persons. That is why, discretion has been given to the trial Judge.

In the present case, learned trial Judge has applied his mind judiciously and has consciously formed the opinion that there was no case to summon Harjit Singh and Satnam Singh as co-accused on the application under Section 319 Cr.P.C. Learned trial Judge has given more than one reason while arriving at such a decision; firstly, that Harjit Singh and Satnam Singh were found to be innocent during investigation and secondly, that this fact had not come in the examination-in-chief of the complainant-injured [Ex. PA] and there was no attribution to Harjit Singh and Satnam Singh. For a moment, if it is accepted that the petitioner was not in a position to name Harjit Singh and Satnam Singh as co-accused at the initial version, yet there was no hitch for the petitioner not to name these two persons in his examination-in-chief at least. So, learned trial Judge has rightly dismissed the application under Section 319 Cr.P.C. qua Harjit Singh and Satnam Singh, respondents No. 2 and 3. More so, the power under Section 319 Cr.P.C. is to be exercised not in a routine manner, but the same is to be exercised sparingly or in exceptional circumstances as held by Hon`ble Supreme Court in **Rajendra Singh Vs. State of U.P. & Anr.** 2007[3] R.C.R. [Criminal] 1022. The discretion exercised by learned

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trial Judge was based on reasoning given in the order dated 28.07.2015 [Annexure P/3]. The same does not call for any interference by this Court by way of the present revision petition and the same stands dismissed.

**(SHEKHER DHAWAN)
JUDGE**

November 27th, 2015
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