

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

CRR No. 3196 of 2015

Date of decision : 31.08.2015

Shyam Sunder

....Petitioner

V/s

State of Haryana & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Raj Kumar Gupta, Advocate for the petitioner.

RAJAN GUPTA J.

Petitioner has challenged the order passed by Additional Sessions Judge, Jhajjar whereby he has declined the prayer for summoning an additional accused under section 319 Cr.P.C.

Learned counsel for the petitioner submits that order passed by trial court is unsustainable and contrary to the law laid-down by Apex court in *Hardeep Singh vs. State of Punjab & ors.* 2014(3) SCC 92.

I have heard learned counsel for the petitioner.

It appears that a telephonic message was received by the police to the effect that in an assault case Sham Sunder (complainant) was admitted in the Shivam hospital, Bahadurgarh. On receiving the information, police reached the said hospital and recorded the statement of complainant who stated that he owns a plot in Netaji Nagar, Line Paar, Bahadurgarh. On 25.03.2014 at about 4.00 p.m., he had gone to have a look at the plot where accused came in a white swift car. After alighting from the car, they assaulted the petitioner. One of the accused namely Ravi inflicted stick blows. Thereafter, they took the complainant to the

liquor vend situated near Nijampur road in the said car and took him out of the car and again inflicted injuries. At about 6.00 p.m. they left him near the plot in question. Thereafter, people gathered there and shifted him to Shivam hospital, Bahadurgarh. On the basis of complaint, FIR in question was registered. Vide order dated 15.09.2014 passed by Judicial Magistrate, Ist Class, Bahadurgarh, offence under sections 365 & 367 IPC was added. Case was committed to the court of Sessions Judge, Jhajjar. During investigation, accused Ravi was found innocent by the police. Instant application was moved under section 319 Cr.P.C. for summoning Ravi as an additional accused. Complainant stepped into the witness box as PW1 and made a statement in terms of complaint made by him. Learned counsel for the petitioner has relied upon the said statement and submits that accused ought to have been summoned to face trial. I am not convinced with the plea. A perusal of the report under section 173 Cr.P.C. shows that through investigation was conducted into the matter. According to investigating agency, statements of seven persons were recorded. They stated that at the time of occurrence Ravi s/o Mehtab was not present at the spot. Admittedly, rest of the accused are now facing trial for offence under sections 323, 325, 342, 506, 365, 367, 34 IPC. There can be no dispute with the contention of counsel that ratio of law laid-down in Hardeep Singh's case (supra) would be applicable. It is, however, inexplicable how order under challenge contravenes the ratio of said judgment. There is, thus, no ground to interfere in revisional jurisdiction of this court. Dismissed.

August 31, 2015

(RAJAN GUPTA)

Ajay

JUDGE