

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

**Criminal Revision No.3400 of 2015
Date of Decision: 24.09.2015**

Ravinder @ Binder & others

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Jitender Dhanda, Advocate
for the petitioner (s).

HARI PAL VERMA J.(Oral)

Petitioners have filed the present revision petition under Section 401 CrPC for setting aside the impugned order dated 24.8.2015 passed by learned Additional Sessions Judge, Hisar, whereby the petitioners have been ordered to be summoned as additional accused to face trial in FIR No.578 dated 6.5.2013 under Sections 302/34 IPC registered at Police Station City Hisar.

Learned counsel for the petitioners submitted that the petitioners No.2 and 3, who are ladies, and petitioner no.1, who is son of accused Rajender and petitioner no.2, were found innocent by

the police during investigation. The aforesaid FIR was registered on the statement of complainant - Tara Chand. As per the FIR, on 1.5.2013, when son of the complainant namely Sonu entered the house of the petitioners, Rajender son of Chandi Ram, petitioner No.2 - Ram Piari wife of Rajender, both sons of Rajender and petitioner no.3 – Suman, daughter of Rajender, caught his son and inflicted injuries upon him by giving kick and fist blows in his stomach. Though initially, the matter was compromised with the intervention of the Panchayat, however, the injuries suffered by Sonu were found to be serious and therefore, he was referred to Civil Hospital, Hisar. Ultimately, Sonu died on 8.5.2013.

Learned counsel for the petitioners argued that summoning of the petitioners on the basis of the version of Tara Chand – complainant in his cross-examination runs contrary to his statement Ex.P1, wherein he had stated that said Sonu suffered injuries due to fall. Learned counsel relies upon judgments of Hon'ble the Apex Court in the cases of **Babubhai Bhimabhai Bokhiria & anr. v. State of Gujarat and ors. 2014(5) SCC 568** and **Hardeep Singh v. State of Punjab & others 2014(3) SCC 92** to contend that in order to summon a person, as an additional accused, the prosecution is required to establish more than *prima facie* case at the time of framing of charge.

I have heard learned counsel for the petitioners.

No doubt, as per the law laid down by Hon'ble the Apex Court in the case of **Babubhai Bhimabhai Bokhiria & anr. v. State of Gujarat and ors.** (*supra*), a person can be summoned when strong and cogent evidence occurs against a person from the evidence led before the Court and the test which has to be applied is one, which is more than *prima facie* case, as exercised at the time of framing of charge, however, the contents of the FIR clearly refers the names of the petitioners. The complainant – Tara Chand while appearing as PW-1 has mentioned the names of the petitioners, who have caused injuries to his son Sonu with kick and fist blows. He has stated that Sonu was in love with Suman and the accused Rajender, Ram Piari, Ravi, Ravinder and Suman did not like this. Thus, there are specific allegations against the petitioners not only in the FIR but in the statement of the complainant as well. In the case of **Hardeep Singh v. State of Punjab & others** (*supra*), Hon'ble Supreme Court has held that a person can be summoned, as an additional accused, even if he is not named in the FIR or if named in the FIR but not chargesheeted or even if he has been discharged.

The trial Court while taking into consideration the evidence on record, has rightly summoned the petitioners as additional accused, to face trial along with other co-accused.

Accordingly, I find no reason to interfere in the impugned order passed by learned Additional Sessions Judge, Hisar, whereby the application filed by the prosecution under Section 319 CrPC has

been allowed and the petitioners have been ordered to be summoned to face trial.

In view of the aforesaid, the present petition, being devoid of any merit, is dismissed

September 24, 2015
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(HARI PAL VERMA)
JUDGE