

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3740 of 2014 (O&M)
Date of Decision: October 20, 2015

Sahun

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.M.D.Khan, Advocate
for the petitioner.

Mr.Himmat Singh, Asstt. Advocate General, Haryana
for the respondent-State.

Mr.Jamshed Ahmed, Advocate
for respondents No.2 to 5.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sahun against respondents State of Haryana, Gaffar, Hasan Mohd. Isrhad and Babbar, challenging the impugned order dated 03.11.2014 passed by learned Sessions Judge, Nuh District Mewat, vide which the application filed under Section 319 Cr.P.C. was dismissed.

Notice of motion was issued and learned State counsel and learned counsel for respondents No.2 to 5, appeared and contested the petition.

I have heard learned counsel for the parties as well as

learned State counsel and have gone through the record.

From the record, I find that as per the impugned order dated 03.11.2014, learned Sessions Judge, Nuh has dismissed the application under Section 319 Cr.P.C. for summoning Gaffar, Hasan Mohd., Irshad and Babbar. This application was given after examination of Sahun as PW-3.

I have perused the impugned order. Learned Sessions Judge, Nuh while passing the impugned order has nowhere discussed the averments in the FIR or in other words, prosecution version. He has also not discussed the statement of PW-3 Sahun as to what he has deposed regarding the present accused-respondents. Learned Sessions Judge, Nuh has also not discussed any medical evidence or injuries on the person of the complainant.

Learned Sessions Judge, Nuh, while dismissing the application under Section 319 Cr.P.C. has also not discussed that as per prosecution version, which weapons these additional accused were having and whether any injuries were attributed to them or in other words, what role is attributed to them in the FIR or whether those injuries attributed to them are corroborated by the MLR etc. Nothing has been discussed regarding above facts to reach to the conclusion that whether it appears to the Court that these persons are involved in the commission of the offence or not.

Learned Sessions Judge, Nuh has only discussed the judgment passed by a Constitution Bench in ***Hardeep Singh vs. State of Punjab and others 2014(1) RCR (Criminal) 623***, in detail but the facts of the present case have not been discussed at all.

Secondly, the Court relied upon the fact that Investigating Officer has found these persons innocent. The application under Section 319 Cr.P.C. is only filed to summon the additional accused when they are not challaned by the Investigating Officer. So, it is the duty of the Court to look into the evidence produced before it and to decide the application under Section 319 Cr.P.C. by giving findings that whether it appears to the Court that additional accused are involved in the offence or not.

In view of the above discussion, I find that the impugned order dated 03.11.2014 passed by learned Sessions Judge, Nuh is a non-speaking order and the same is set aside. The matter is remanded back to the trial Court for passing a fresh speaking order by discussing the evidence produced before it as to whether it is sufficient evidence to summon the additional accused or not.

Therefore, finding merit in the present revision petition, the same is allowed accordingly.

October 20, 2015
Vgulati

(INDERJIT SINGH)
JUDGE