

107

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.3947 of 2015 (O&M)

Date of Decision: November 19, 2015.

Mehar Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.P.S. Shergill, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the orders dated 14.09.2015, whereby, application moved by the prosecution under Section 319 of Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) for summoning respondents No.5 to 7 to face the trial as additional accused, was dismissed.

Learned counsel for the petitioner has submitted that as per the FIR, complainant had averred that he believed that his son had been murdered by respondents No.5 to 7 also.

Section 319 of Cr. P.C. reads as under:-

"Power to proceed against other persons appearing to be guilty of offence:-

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the

accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard.

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."

Thus, as per the above provision, the Court has ample power to summon a person as an additional accused to face the trial with the accused already facing trial, if there is enough material on record to proceed against the said person.

In the present case, after completion of investigation and necessary formalities, challan was presented against respondents No.2 to 4. During the pendency of the trial, prosecution moved an application for summoning respondents No.5 to 7 to face the trial as additional accused. Trial Court while dismissing the application has held that the complainant while appearing in the witness-box as PW8 had stated that when he was going

towards the Stadium after coming to know that his son had suffered stab injuries, he had seen all the five accused coming from the side of occurrence armed with knives and spades. However, the said version put-forth by the complainant while appearing in the witness-box was not so stated in the FIR. In these circumstances, the learned trial Court rightly held that the complainant had made material improvement while appearing in the witness-box.

Hence, the reasons given by the trial Court while dismissing the application moved by the prosecution under Section 319 Cr. P.C. for summoning respondents No.5 to 7 to face the trial as additional accused are sound reasons and call for no interference.

Dismissed.

**(SABINA)
JUDGE**

November 19, 2015
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