

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4042 of 2014 (O&M)
Date of Decision: January 23, 2015

Mandeep Singh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Saurabh Sharma, Advocate
for the petitioners.

Mr.Gaurav Jindal, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this revision petition under Section 401 Cr.P.C. against State of Haryana respondent challenging the impugned order dated 15.9.2014 passed by learned Addl. Sessions Judge, Kurukshetra vide which the petitioners were summoned under Section 319 Cr.p.C. for facing trial under Sections 148, 149, 323, 307 IPC and Section 27 of the Arms Act.

It is stated in the petition that FIR was registered on the statement of Sandeep Kumar. The police investigated the case and filed challan against Suresh, Sanjay, Satyawar, Rohtash, Rajat and Parmod. The petitioners Mandeep Singh and Pargat were found innocent and placed in column No.2. As per the FIR, slaps and fist

blows were attributed to Mandeep Singh. It is further stated that Mandeep Singh and Pargat were armed with *danda* each. Bhaiya was armed with *jelly*. Sanjay fired a shot from the gun which he was carrying which hit complainant's brother in stomach and Sanjay fired second shot on complainant, which did not hit anybody. It is also in the FIR that all the accused started beating complainant with lathis and sticks, on which he made noise and his uncle Subhash came running to the spot and tried to separate them. He also received injuries.

Six persons were already challaned under Sections 148, 149, 323 and 307 IPC and Section 25 of the Arms Act. The statement of PW-1 Sandeep Kumar complainant was recorded. The same version was reiterated and the trial Court allowed the application under Section 319 Cr.P.C. by summoning the present petitioners.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that six persons were already challaned for causing injury to the complainant party. Injured Satnam has received only one gun shot injury, which is not attributed to the present petitioners. The complainant has received only one simple injury and Subhash has received two simple injuries with blunt weapon. So, with blunt weapon, only three injuries are stated to have been received by the complainant party. The copies of the MLRs have

been placed on the record. As per Annexure P-2, Sandeep Kumar has received only one contusion mark, which injury has been declared as simple and with blunt weapon. Subhash is stated to have received one contusion and reddish abrasion and third person Satnam has received one injury that is with fire arm weapon. For these three simple injuries, six persons are already facing trial. As per the FIR, firstly slaps and fist blows were shown to be given by petitioner Mandeep Singh, which are not supported and corroborated by medical evidence. Next, as per the FIR, general allegations have been levelled against all the accused, which means eight persons have started giving beatings to complainant party with lathis and sticks. So, keeping in view the injuries on the complainant party as per MLRs, in no way, it can be held that it appears that present petitioners are involved in the commission of the offence and they should face trial when six persons are already facing the trial.

At the time of allowing the application under Section 319 Cr.P.C., the trial Court should not pass the order in a routine manner because one of the PW has deposed as per the prosecution version. As per the version of the complainant, investigation has already been conducted and both these present petitioners have been found innocent.

In view of the facts and circumstances of the present case, I find that the injuries are not supported by medical evidence and only mere statement of the complainant is not enough from where it can be held that present petitioners appear to have been involved in the

commission of the offence.

From the above discussion, I find that the impugned order dated 15.09.2014 summoning the petitioners has been passed by learned Addl. Sessions Judge, Kurukshetra in a routine manner, which is not as per law and same is set aside.

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

January 23, 2015
Vgulati

(INDERJIT SINGH)
JUDGE