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

CRR No.83 of 2014

Date of decision: February 06, 2015

Subhita

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jasdev Singh Mehndiratta, Advocate
for the petitioner.

Mr. Harkesh Kumar, AAG Haryana.

Mr. Jitender Dhanda, Advocate
for the respondents No.2 and 3.

SABINA, J

Petitioner has filed this petition challenging the order dated 11.12.2013 whereby application moved by the prosecution under Section 319 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short) for summoning respondents No.2 and 3 as additional accused, was dismissed.

Learned counsel for the petitioner has submitted that the trial Court has erred in dismissing the application moved by the prosecution under Section 319 Cr. P.C.. Complainant had specifically stated in her statement that respondents No.2 and 3 were also present at the spot and had caught hold of her husband and thereafter, injuries had been inflicted by accused Jai Singh on the head of her husband.

Learned counsel for respondents No.2 and 3, on the

other hand has opposed the petition and has submitted that the said respondents were found innocent during investigation and no overt act was attributed to them.

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 any person as 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.

Prosecution story in brief is that on 28.07.2013, Ran Singh husband of the complainant had stated that he was going to the fields. Complainant heard alarm raised by her husband and saw that Jai Singh was armed with a *lathi* and Sanjit, Birma and Kiran had caught hold of her husband. Jai Singh gave *lathi* blows

on the head and chest of her husband.

During investigation, Birma and Kiran were found innocent and challan was presented against accused Sanjit and Jai Singh. Prosecution moved an application under Section 319 Cr. P.C. for summoning respondents No.2 and 3 to face the trial as additional accused. Learned trial Court rightly dismissed the application filed by the prosecution as the complainant while appearing in the witness-box had made improvements in her earlier version. While appearing in the witness-box, complainant stated that all the four accused had inflicted injuries on the person of the deceased with *lathis*. Admittedly, the said version of the complainant was not corroborated by medical evidence. Husbands of the respondents No.2 and 3 are already facing the trial. In these circumstances, learned trial Court had rightly ordered the dismissal of the application moved by the prosecution under section 319 Cr. P.C. to summon respondents No.2 and 3 to face the trial as additional accused.

Dismissed.

**(SABINA)
JUDGE**

February 06, 2015

m.singh