

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.493 of 2015 (O&M)
Date of decision: February 16, 2015

Satyavir Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ram Darshan Yadav, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against State of Haryana and Ikramuddin respondents challenging the order dated 28.11.2014 passed by learned Sessions Judge, Faridabad, vide which the application under Section 319 Cr.P.C. filed by the petitioner has been dismissed.

It is mainly stated in the petition that order dated 28.11.2014 passed by learned Sessions Judge, Faridabad is against the law as well as evidence on record and hence liable to be set aside. It is further stated in the petition that on the complaint of the petitioner, a criminal case case FIR No.142 dated 06.06.2012 was registered under Section 302 IPC and Section 25 of the Arms Act against Shyam Sunder @ Palli. As per the FIR, the complainant was informed by the wife of his younger brother Parmod Kumar that

Parmod Kumar left for home at 6.00 P.M. after completing his duty and she talked to him on telephone at 10.00 P.M. but till 12.00 P.M., when Parmod did not reach, she enquired from Ajit on telephone regarding Parmod, who said that they have consumed liquor at Ismilepur vend upto 10.00 P.M. and thereafter, he came at his home and Parmod also started for his home. When complainant crossed Panchsheel Colony and reached near Durga Builder, then he saw his brother's motorcycle was parked on the side of the road and it was locked. At a distance of 70-80 feet from the motorcycle on the other corner of the road, he saw his brother lying on ground and blood was oozing out from his forehead and lips and he was lying in dead condition. It appeared to him that his brother Parmod was murdered by fire arm injury by some unknown person.

I have heard learned counsel for the petitioner and have gone through the record, especially the impugned order.

The challan was presented against Shyam Sunder @ Palli. PW-19 Ikramuddin appeared as witness in the trial Court and has not supported the prosecution version. The complainant filed application under Section 319 Cr.P.C. to summon Ikramuddin as accused in this case on the ground that during the course of examination, it has been revealed that he did not know the accused nor had any conversation with the accused with his cell phone No.9911588486 but as per the record, it is established that he and accused were in touch regularly. The statement of PW-19 Ikramuddin that on 5.6.2012, he did not converse with the accused is also belied from the record pertaining to

his cell phone. It is also alleged that Ikramuddin had been in touch with Pinki, wife of the deceased and all these facts show that Ikramuddin is involved in the occurrence.

From the record, I find that it is a case of circumstantial evidence and in the case of circumstantial evidence, the chain of circumstances should be complete to point out the guilt of the accused only and none else. In the present case, it is admitted at the time of arguments that complainant has not alleged any suspicion against the person to whom he want to get summoned. He has not alleged anything that he is also involved in the case. Except these things, which have come into statement of PW-19 Ikramuddin, nothing is there to summon accused under Section 319 Cr.P.C. It should appear to the Court that the person to be summoned, is involved in the commission of the offence and should face trial along with other accused. As per the statement of PW-19 Ikramuddin, it does not appear that he is involved in the case and should face trial.

In view the above discussion, I find the impugned order dated 28.11.2014 passed by learned Sessions Judge, Faridabad is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the preset petition, the same is dismissed.

February 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE