

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-17079 of 2016 (O&M)**
Date of Decision: May 18, 2016

Jai Parkash

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Sunny Bhardwaj, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents for setting aside the impugned order dated 06.06.2015 passed by learned Sub Divisional Judicial Magistrate, Tosham whereby the application under Section 319 Cr.P.C. filed by the petitioner for summoning respondents No.2 to 6 as additional accused was dismissed and also for setting aside the judgment dated 02.03.2016 passed by learned Sessions Judge, Bhiwani, whereby the revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that in the present case FIR was registered under Sections 323, 325 and 34 IPC in the year 2012. Five

persons were challaned namely, Surender, Satish, Saroj, Pyare Lal and Dalip. The petitioner further wants to summon five more persons, who are respondents No.2 to 6 in the present petition. I have gone through the impugned order dated 06.06.2015 passed by learned SDJM, Tosham dismissing the application under Section 319 Cr.P.C. and the judgment dated 02.03.2016 passed by learned Sessions Judge, Bhiwani dismissing the revision petition. The perusal of order and judgment passed by the Courts below shows that these are as per evidence and law. In no way, it can be held that any illegality has been committed while dismissing the application under Section 319 Cr.P.C. filed by the prosecution for summoning present respondents No.2 to 6.

The perusal of the MLRs show that Ashish Gupta stated to have received six injuries and all are complaint of pain. Similarly, the injured Sachin Sahil has received two injuries, one is complaint of pain and the other is scar mark. For these injuries, already five persons have been challaned after investigation. Such type of injuries cannot be given by ten persons. The Court has discussed the statement of complainant Jai Parkash who admitted that due to black out, he could not see as to who was having which weapon in his hand. He also stated that he became unconscious after sustaining the head injury. The Court held that it can be easily opined that he could not be aware of anything happened after that. He regained his senses only on 15.07.2012. The Court further held that there is no other evidence to support the application in hand.

For summoning additional accused, it should appear to the Court that the persons which the applicant wants to summon as additional accused, are involved in the commission of the offence and they should be tried along with accused already challaned. From the facts and circumstances of the present case, I find that it does not appear to the Court that persons sought to be summoned as additional accused, are involved in the commission of the offence.

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

May 18, 2016
Vgulati

(INDERJIT SINGH)
JUDGE