

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

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**C.R.M-M No.18034 of 2016
Date of Decision : 17.08.2016**

Kuldip Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Mr. K.S. Pannu, D.A.G., Punjab.

Ms. Vanita Sapra Kataria, Advocate
for the respondent No.2.

AJAY TEWARI, J. (Oral)

This petition has been filed against the orders dated
02.04.2016 and 08.01.2016 summoning the petitioner under Section 319
Cr.P.C. for offences under Sections 324, 323, 506 and 34 IPC.

The main contention of the learned counsel for the petitioner

is that in the original statement made to the police the complainant-respondent No.2 Balwinder Singh (who otherwise well knew all the parties) did mention that the petitioner was present but did not make any allegations against him and ultimately the petitioner was kept in Column No.2. However, when the complainant-respondent No.2 appeared to give his testimony he attributed injuries to the present petitioner and the courts below have summoned the petitioner in a mechanical manner by noticing only the statement made in Court and by not noticing anomaly between the first statement and the testimony in Court.

Learned counsel for the complainant-respondent No.2 has argued that actually the police was supporting the petitioner and in his original statement also the complainant Balwinder Singh had alleged specific imputation to the present petitioner but that was not recorded by the police. She has however fairly accepted that no complaint has been made by the complainant to any higher authority and it was only when he come forward to give his testimony after 3 years' time that he made the allegation against the petitioner.

In my opinion, the attention of the trial Court was not drawn to the decision of the Supreme Court in the case of ***Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*** while the Revisional Court did refer

to Hardeep Singh's case (supra). To my mind he has not applied the

parameters evolved therein in the correct spirit because there is no reference by the Revisional Court to the absence of any imputation to the petitioner in the entire order. In the circumstances, the omission of the complainant Balwinder Singh to make any specific attribution to the petitioner even while naming him would justify the contention of the learned counsel for the petitioner that summoning of the petitioner is illegal.

In the circumstances, the petition is allowed and the impugned orders are set aside.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

August 17, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No