

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-29832 of 2014

.....

Date of decision:15.12.2016

Gurcharan Singh

.....Petitioner

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. S.P.S. Sidhu, Advocate for the petitioners.

Mr. Varun Sharma, Assistant Advocate General, Punjab
for the respondent-State.

Mr. Kanwaljit Singh, Senior Advocate with Mr. Ajaivir Singh,
Advocate for respondent No.2.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. with a prayer to quash the order dated 24.2.2014 (Annexure-P.2) passed by the learned Judicial Magistrate Ist Class, Ferozepur, vide which application under Section 319 Cr.P.C. filed by the petitioner has been dismissed in case FIR No.250 dated 10.11.2009 registered for the offences under Sections 325, 323 and 120-B IPC at Police Station Kulgarhi, District Ferozepur, as also the order dated 22.7.2014 (Annexure-P.3) passed by the learned Additional Sessions Judge, Ferozepur, vide which the revision petition against the order dated 24.2.2014 filed by the petitioner has been dismissed.

Notice of motion was issued in this case only qua respondents No.2 and 5-Kewal Singh and Jasmeet Singh. Learned counsel for the

petitioner did not press the present petition qua petitioners No.3 and 4.

Mr. Varun Sharma, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and Mr. Kanwaljit Singh, learned Senior Advocate assisted by Mr. Ajaivir Singh, Advocate has appeared for respondent No.2 and contested this petition.

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

From the record, I find that the challan was presented against accused Pakhar Singh, Kabul Singh, Beant Singh and Sukhwinder Singh. During the trial before the learned Judicial Magistrate Ist Class, Ferozepur, an application under Section 319 Cr.P.C. was moved by the learned APP to summon accused Kewal Singh, Balkar Singh, Harnek Singh and Jasmeet Singh as additional accused. It has been stated in the application that names of the accused had been mentioned in the statement recorded by the Police on 27.5.2008 and thereafter, the statement of the complainant was recorded in the Court, in which the names of all the accused were also figured in the statement with specific role and involvement and active part attribution of the injuries. It has been further alleged that above said accused were not challaned by the Police due to political pressure. It has been prayed that the accused may be summoned.

The learned Judicial Magistrate Ist Class, Ferozepur, after discussing the evidence dismissed the application. Aggrieved from this order, a revision petition was filed, which has also been dismissed by the learned Additional Sessions Judge, Ferozepur. It is now settled law that the

additional accused can be summoned if it appears to the Court that these accused are also involved in the commission of the offences and can be tried along with the accused already challaned. The standard of proof for summoning under Section 319 Cr.P.C. somewhat is more than the *prima facie* case. It is not necessary to be looked into by the Court that the evidence before the Court is insufficient to convict the accused etc. A perusal of the record shows that the FIR was registered on the statement of the injured complainant-Gurcharan Singh, who mainly stated in the FIR that votes were being polled on 26.5.2008 for the election of Panchayat in the school of their village. The complainant along with Jasbir Singh, Kulwant Singh and Jasbir Kaur were present at about 9.30 a.m. Pakhar Singh, Kewal Singh, Kabul Singh, Jasmeet Singh armed with 'Gandasa', Beant Singh armed with 'Takua', Sukhwinder Singh and Karnail Singh armed with 'Dang' and Balkar Singh armed with 'Khandhali' came in the school. Then Pakhar Singh raised 'Lalkara' to teach a lesson for contesting elections against them and all these persons caused injuries and gave fist blows to the complainant. Due to this, he received injuries on both eyes, forehead, head, left arm and right thigh. When the alarm was raised, the accused ran away.

Learned counsel for the petitioners at the time of arguments shown the statement of the doctor given before the Court for the purpose of showing injuries. Sandeep Singh-injured had received one lacerated wound on the right side of forehead and second injury was swelling and reddish bluish contusion on left elbow joint. Gurcharan Singh-complainant received six injuries on his person out of which four were lacerated wounds,

one reddish contusion and other was swelling on the forearm. None of the injuries had been caused with the sharp edged weapon. All the injuries were with blunt weapon. Jasmeet Singh and Kewal Singh, qua whom notice of motion has been issued and the petitioner wants to summon as additional accused, are stated to be armed with 'Gandasa' i.e. sharp edged weapon, but there is no sharp edged injury to the injured. Further more, after investigation and inquiry both these petitioners have been found innocent. An inquiry was got conducted by DSP Control Room, Ferozepur. As per the reply given by the State, no specific role has been attributed in the FIR, which is the first version of the complainant, to the two accused Kewal Singh and Jasmeet Singh. Rather, general averments had been made regarding causing injuries. It is stated now in the Court the complainant has given the statement attributing specific role to the accused as the complainant had stated that Kewal Singh and Jasmeet Singh gave 'Gandasa' blows on his head, but as already discussed, all these injuries were lacerated wounds and were not caused with any sharp edged weapon.

At this stage, I find that it does not appear to the Court that the present petitioners are involved in the commission of the offences. The orders passed by the Courts below dismissing the application are correct and as per evidence and law and the same are upheld.

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

However, the observations made herein shall not, in any manner, be construed as an expression of opinion on the merits of the case.

The observations made above are only for the purpose of deciding this petition.

December 15, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No