
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.248

CRM No.M-42223 of 2013
DECIDED ON: February 19, 2016

SWARAN SINGH AND ANOTHER

..PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. R.C. Sharma, Advocate, for the petitioner.

Mr. Varun Sharma, AAG, Punjab.

Mr. S.P. Soi, Advocate, for respondent No.2.

JASPAL SINGH, J

Petitioners-Swaran Singh & Kulwant Singh feeling dissatisfied from the order dated August 20, 2013 passed by learned Additional Sessions Judge, Jalandhar (Annexure P-8), whereby the order dated May 09, 2012, passed by learned Judicial Magistrate Ist Class, Nakodar (Annexure P-7), vide which the petitioners have been summoned to face trial under Section 319 Cr.P.C. in case FIR No. 68, dated July 29, 2006, under Sections 341, 323, 325, 427, 148, 149, 506, 34 IPC and Sections 3 & 4 of SC/ST Act,

Police Station Lohian, has been upheld.

While challenging the order(s) passed by both the courts below, it has been contended by learned counsel for the petitioners that same are absolutely based upon conjectures and surmises. Much emphasis was made on the statement of complainant Gurdial Singh @ Laddi, but if his statement be perused carefully it discloses that no specific attribution of any injury to any of the petitioner has been made. In fact, the complainant has failed to bring any incriminating evidence on record which could urge the trial court to pass an order for summoning of the petitioner as an additional accused to face trial jointly with other accused. It is well settled that a person should not be summoned by the court on mere suspicion regarding his involvement. Rather, the power under Section 319 Cr.P.C. being an extra ordinary power which has to be exercised sparingly, that too, when there exist some compelling reasons and circumstances. In the case in hand put-forth by the complainant is highly improbable and implausible. It does not appear that as many as ten persons cause or inflict injuries to a person, he would sustain only simple and minor injuries. Thus, the impugned order(s) being based on insufficient evidence are not sustainable in the eyes of law and are liable to be set aside.

After bestowing due consideration to the aforesaid submissions and scrutinizing the impugned order(s), this Court is of the considered view that the submissions made by learned counsel for the petitioner do not carry any legal weigh. In the case in hand, it cannot be said that trial court has acted on mere conjectures and surmises while allowing the application under Section 319 Cr.P.C. and summoning the revisionists as an additional

accused. There are specific allegations and attributions unfolded by PW1-Gurdial Singh @ Laddi even in his depositions. He has attributed specific roles to all the petitioners for having inflicted injuries on his person.

Moreover, at the time of allowing an application under Section 319 Cr.P.C., the Court has only to see whether there is some evidence which can be said to be more than a prima facie case, which should not be less than the evidence, which is required for framing of charge. This Court is of considered view that such evidence is there by way of testimony of PW1-Gurdial Singh @ Laddi victim. Thus, the petitioner have rightly been summoned to stand trial along with co-accused under Sections 323, 324, 506 & 34 IPC.

This Court does not find any infirmity or illegality in the impugned order(s) passed by both the courts below.

Accordingly, instant petition being devoid of merit stands dismissed.

February 19, 2016

Ankur

**(JASPAL SINGH)
JUDGE**