

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

**CRM No.M-7973 of 2016(O&M)**  
**Date of Decision: April 04, 2016**

Abhilash Chopra

...Petitioner

VERSUS

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Bhupinder Ghai and Mr.A.K.Handa, Advocates  
 for the petitioner.

\*\*\*\*

**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents challenging the order dated 19.01.2016 passed by learned Addl. Sessions Judge, Mohali vide which the application under Section 319 Cr.P.C. filed by the complainant-petitioner was dismissed and to summon additional accused to face trial in case FIR No.53 dated 23.04.2014 under Sections 307, 341, 323, 506 and 120-B IPC registered at Police Station Phase-8, Mohali.

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

From the record, I find that challan was presented in case FIR No.53 dated 23.04.2014 against Jagdeep Singh alias Sunil, Sher Singh and Pardeep Kumar. An application under Section 319 Cr.P.C.

was filed by the complainant-petitioner for summoning Shivani Adlakha, Avi Singh and Harpinder Singh Pinda as additional accused. It is stated in the application that while submitting the report under Section 173 Cr.P.C., Harpinder Singh Pinda had been declared innocent while it has been mentioned that Shivani Adlakhka and Avi Singh could not be arrested and that supplementary challan against them would be presented later on. It has further been averred that all the aforesaid accused also played a main role in causing injuries on his person but despite availability of evidence, investigating agency has not challaned them. Learned Addl. Sessions Judge, SAS Nagar, Mohali, vide order dated 19.01.2016, after discussing the facts of the case, dismissed the application.

The perusal of the record, especially the impugned order shows that the order dated 19.01.2016 is correct, as per evidence and law. The prosecution case is that on 23.04.2014 complainant Abhilash Chopra reported that when he went to the school to drop his son Shaurya Chopra and when he was on his way back at about 9.10 a.m., then three assailants carrying iron rods riding in car bearing registration No.HR-05K-0026 way laid him and attacked him with the iron rods on the various parts of the body and he started bleeding profusely. *Raula* attracted many persons, upon which the assailants ran away from the spot along with their weapons. During the investigation, accused Jagdeep Singh, Sher Singh and Pardeep Kumar were arrested and are facing trial. The complainant Abhilash Chopra, in his evidence further stated that Shivani Adlakha is related

to his wife. Her relations with her husband Jyoti Adlakha were estranged. When Jyoti Adlakha asked complainant to intervene, he called Shivani Adlakha upon which she visited India and admitted her extra marital relations with Avi Singh but on being counseled, Shivani Adlakha assured that she would snap her ties with Avi Singh but after reaching England, she not only continued with Avi Singh but also told that Avi Singh got annoyed and contacted his brother Harpinder Singh Pinda through whom the accused facing trial were hired to kill complainant. The complainant further stated that in May 2014, Shavdeep Singh Sandhu visited his house and asked him for a compromise but when complainant narrated the entire incident to him, even Shavdeep Singh Sandhu felt annoyed.

In the FIR, there are no allegations qua the persons sought to be summoned as additional accused. The complainant had made supplementary statement qua them. Shivani Adlakha and Avi Singh, both are permanent resident of England. Till date, they have not been arrested, so as to make them join investigation. As per the Investigating Officer, no document or circumstance has appeared before him indicating their involvement in the crime. However, in the challan, it has been mentioned that as and when Shivani Adlakha and Avi Singh would be arrested, the supplementary challan would be presented.

The Court held in the case that at this stage, except for a suspicion, there is no evidence indicating direct involvement of Shivani Adlakha or Avi Singh that they might have hired contract

killers through Harpinder Singh @ Pinda to kill the complainant. Therefore, the Court held that mere at the asking of complainant, the above-said persons cannot be summoned as additional accused.

The impugned order is correct and as per evidence. While summoning the persons under Section 319 Cr.P.C., it should appear to the Court that the persons sought to be summoned as additional accused, are involved in the commission of offence and they should be tried along with accused already facing the trial. From the perusal of the record, it nowhere appears that Shivani Adlakha, Avi Singh and Harpinder Singh Pinda are involved in the commission of offence and they should be tried along with accused already facing the trial. Therefore, the findings given by learned trial Court are correct.

However, the observation of learned Addl. Sessions Judge, SAS Nagar, Mohali that there should be reasonable prospect of their conviction if put to trial, are not correct. As per settled law now there is no necessity to summon the accused only if there is chance of his conviction. At this stage, the Court is to see whether it appears to the Court that person sought to be summoned is involved in the commission of the offence or not. This satisfaction of the Court should be somewhat more than prima facie case and less than prospect of his conviction.

In view of the above discussion, I find that the impugned order dated 19.01.2016 passed by learned Addl. Sessions Judge, SAS Nagar, Mohali, is correct, as per law and does not require any interference from this Court.

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

**April 04, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**