

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-8459 of 2016 (O&M)
Date of Decision: March 22, 2016

Ram Chhabra

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Arora, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the summoning order dated 20.12.2013 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the accused-petitioner was summoned on the application under Section 319 Cr.P.C. and the order dated 10.02.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which revision filed by petitioner was dismissed.

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

From the record, I find that challan was presented against accused Chand Chhabra only and name of Ram Chhabra was kept in column No.2. During the trial, an application was filed under Section 319 Cr.P.C. for summoning Ram Chhabra. It is stated in the

application that Ram Chhabra was named in the FIR but the police has shown his name in column No.2 of the challan. The complainant while appearing as witness has specifically named above-said person as accused and as such, the said person is very much required to be summoned as an accused in order to prove the case. Learned JMJC, Jalandhar, after giving the reasonings, summoned Ram Chhabra. It is held by learned Magistrate that Ram Chhabra was named in the FIR by the complainant and, in examination-in-chief, he has categorically stated about the role played by Ram Chhabra. In his statement before the police as well as in his examination-in-chief, the complainant has stated the entire damage was going on in his presence and at the instance of accused Ram Chhabra as well as Chand Chhabra, who were present at the spot. The police has given him clean chit on the basis that on the day of occurrence, accused Ram Chhabra was present in the Court as he was appointed by the Bar to appear as a Proxy counsel in the Court of the then Addl. Civil Judge (Senior Division), Jalandhar with effect from 21.05.2007. The Court held that there is no document on the record that at the relevant time and date of occurrence, accused Ram Chhabra was present in the Court as Proxy counsel as no order sheet from the Court has been placed on the record. Learned Magistrate also held that it is also not impossible for a person to go at a distance of almost 20 kms. in a short span of time. Learned Magistrate vide order dated 20.12.2013 summoned accused Ram Chhabra. A revision was filed and learned Addl. Sessions Judge, Jalandhar, vide order dated

10.02.2016, dismissed the revision petition.

Aggrieved from the above-said order and judgment, present petition has been filed.

I have gone through the impugned orders passed by the Courts below, I find that, in no way, these orders can be held as perverse or against the evidence and law. No illegality has been committed by the Courts below while summoning Ram Chhabra as additional accused to face trial along with other accused. In the FIR, there are specific allegations by the complainant that Ram Chhabra and Chand Chhabra accompanied with 20-25 persons, came in the colony on 08.10.2007, excavated the roads, caused damage to the foundation and walls of the plots, loaded bricks in the tractor-trolley and committed theft of the same.

At the time of arguments before this Court also, the main plea of alibi was raised and Advocate's roster dated 21.05.2007 was shown that at the time of strike, some specific advocates of the Bar are to appear in the specific Courts. The occurrence took place on 08.10.2007. So, this letter/roster dated 21.05.2007 will not prove itself that present petitioner was present in the Court on the date of occurrence. Ram Chhabra is named in the FIR and specific role has been attributed to him. In the Court also, the complainant has deposed on oath regarding the same.

From the evidence it appeared to the Court that Ram Chhabra was also involved in the commission of the offence and he should be tried along with other accused.

In view of the above discussion, I find that the orders passed by the Courts below are correct, as per law and do not require any interference from this Court.

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

March 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE