

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3251 of 2013 (O&M)
Date of Decision: April 29, 2016

Ram Kishan Gujjar

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Rai, Senior Advocate with
 Mr.Karan Pathak, Advocate
 for the petitioner.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
 for the respondent-State.

Mr.K.K.Gupta, Advocate
 for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Ram Kishan Gujjar against State of Haryana and Preeti, challenging the impugned order dated 19.09.2013 passed by learned Addl. Sessions Judge, Ambala.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the 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 an application was filed under Section 319 Cr.P.C. for summoning Ram Kishan Gujjar as additional accused stating therein that initially the FIR No.114 dated 11.06.2009

was lodged against Ram Kishan Gujjar, Vijay Aggarwal @ Mecky and Ajit Aggarwal. The police challaned Vijay Aggarwal @ Mecky and Ajit Aggarwal and accused Ram Kishan Gujjar was put into column No.2 in the report under Section 173 Cr.P.C. Initially, Yash Pal Khanna moved a complaint dated 11.06.2009 alleging therein that Ram Kishan Gujjar, MLA from Naraingarh was nursing a grudge against him and his son Pankaj Khanna on account of certain items published in the Newspaper highlighting his misdeeds and questionable conduct. Vijay Aggarwal @ Mecky and Ajit Aggarwal were his hardcore supports. At the behest of Ram Kishan Gujjar, a false FIR No.159 dated 24.08.2008 was lodged against his son. While he was in police custody, Vijay Aggarwal @ Mecky and Ajit Aggarwal beaten his son in his presence and police watched the incident. Thereafter, on 21.03.2009, Vijay Aggarwal @ Mecky and Ajit Aggarwal beaten his son and threw him thinking him to be dead. His son survived on account of time medical help. They were called at the residence of MLA at Panchkula and threatened to face the dire consequences. Feeling insecure, his son Pankaj committed the suicide by writing the suicide note Ex.P1 levelling allegations against Ram Kishan Gujjar, Vijay Aggarwal @ Mecky and Ajit Aggarwal holding them responsible for his critical condition. Yash Pal Khanna was examined as PW-1 to prove the suicide note and thereafter, an application under Section 319 Cr.P.C. was moved and Ram Kishan Gujjar was summoned vide order dated 10.07.2010 for facing trial. Ram Kishan Gujjar filed a criminal revision, which was dismissed by this Court vide judgment

dated 07.02.2013. Ram Kishan Gujjar challenged the said judgment before the Hon'ble Supreme Court of India and Hon'ble Apex Court, set aside the order dated 10.07.2010 and 07.02.2013 by virtue of judgment dated 10.06.2013 on the ground that PW-1 Yash Pal Khanna was no more and no opportunity of cross-examination of Yash Pal Khanna was afforded and now the question of cross-examination of PW-1 does not arise since he had died and left it open to reconsider the matter by learned trial Court.

Learned Addl. Sessions Judge, Ambala vide impugned order dated 19.09.2013 after discussing all these facts and order passed by Hon'ble Supreme Court held that the Hon'ble Supreme Court set aside the order of this Court as well as of Sessions Court leaving it open to Sessions Court to consider the said issue that if learned Public Prosecutor files fresh application under Section 319 Cr.P.C., then the Court may pass appropriate orders based on the evidence adduced by other witness. Learned Addl. Sessions Judge, Ambala held that fresh application has been filed by legal heir of Yash Pal Khanna namely Preeti, which can be considered as per law. Suicide note of Pankaj Khanna Ex.P2 speaks that Ram Kishan Gujjar MLA Naraingarh and Mecky Lala and Ajit Aggarwal are responsible for his death. The Court further held that other important thing which came into notice is that Pankaj consumed sulphas on 10.06.2009 and was got admitted at Government Hospital, Naraingarh. Dr.Ruchi opined his fitness at the time of his making the statement, who has been examined as PW-13 in this case. ASI Yamin examined as PW-

14 recorded the statement of Pankaj Khanna and Pankaj Khanna made the statement before him that he consumed the sulphas due to Ram Kishan Gujjar, Vijay Aggarwal @ Mecky and Ajit Aggarwal. The Court held that in view of the evidence on record, there is sufficient evidence to summon Ram Kishan Gujjar to face trial.

The perusal of record shows that learned Addl. Sessions Judge, Ambala vide order dated 19.09.2013 has complied with the directions of the Hon'ble Supreme Court. He has decided the application under Section 319 Cr.P.C. on the basis of other evidence and has not considered the statement of Yash Pal Khanna. The suicide note has been duly proved by the witnesses and also the statement of Pankaj Khanna has been brought on record, which amounts to dying declaration.

In view of this evidence, it appears to the Court that Ram Kishan Gujjar is involved in the commission of the offence and he should face the trial along with the accused already challaned. No illegality has been committed by learned Addl. Sessions Judge, Ambala while passing the impugned order.

In view of the above discussion, I find that the impugned order dated 19.09.2013 passed by learned Addl. Sessions Judge, Ambala is correct, as per law and the same is upheld.

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

April 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE