

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-9661 of 2016

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Date of decision:18.3.2016

Mandeep alias Ashok

...Petitioner

v.

State of Haryana and another

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Arjun Sheoran, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. praying for setting aside the order dated 18.9.2015 (Annexure-P.1) passed by learned Judicial Magistrate Ist Class, Narwana, by virtue of which the petitioner has been summoned to face trial in case FIR No.135 dated 26.5.2014 registered for the offences under Sections 323, 452 and 34 IPC at Police Station Uchana, Jind as well as order dated 4.2.2016 passed by learned Sessions Judge, Jind, Haryana, by virtue of which the revision petition filed by the petitioner has been dismissed.

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

From the record, I find that an application was filed under Section 319 Cr.P.C. for summoning accused Mandeep alias Ashok along

with other co-accused. Learned Judicial Magistrate Ist Class, Narwana, after discussing the evidence summoned Mandeep alias Ashok to face the trial as an additional accused. A criminal revision petition was filed by the present petitioner before the learned Sessions Court and the learned Additional Sessions Judge, Jind, also dismissed the petition vide impugned judgment dated 4.2.2016.

A perusal of the record shows that in the FIR, the complainant Smt. Savitri Devi clearly mentioned that accused Mandeep alias Ashok along with other co-accused came to her house and raised 'Lalkara' and entered in the house to commit the crime. PW-2 Sukhvir and PW-3 Inder Singh had also mentioned the name of accused Mandeep alias Ashok. PW-1 had also deposed regarding the role of Mandeep alias Ashok.

It is settled law that at the time of summoning under Section 319 Cr.P.C., it should appear to the Court from the evidence that the person to be summoned as an additional accused is involved in the commission of the offence and he should be tried along with the accused already challaned. After going through the evidence on record i.e. statements of Savitri Devi-complainant, PW-2 Sukhvir and PW-3 Inder Singh, the Court summoned the present accused Mandeep alias Ashok.

A perusal of the record shows that the order passed by the Court below is correct as per evidence and law. No illegality has been committed by the Court below. In no way, the order passed by the Courts below can be held as perverse, against the evidence or law. In the FIR as well as in the statement of these three witnesses, it has been mentioned that

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Mandeep alias Ashok had raised the 'Lalkara' and actively participated in the commission of the offence. Therefore, at this stage, it appears to the Court that he is involved in the commission of the offence.

Learned counsel for the petitioner tried to point out discrepancies from the statements of the witnesses. At this stage, the Court is not disposing of the case on merit. Therefore, at this stage, only the evidence is to be appreciated for the purpose that from the evidence it appears to the Court that the present accused is involved in the commission of the offence. In my view, three witnesses have deposed against the petitioner regarding the role played by him that is raising 'Lalkara' etc. and he is also named in the FIR. Therefore, from the above discussion, I find that the impugned orders passed by the Courts below are correct as per law which do not require any interference from this Court and, in no way, can be held as amount to miscarriage of justice.

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

March 18, 2016.

(Inderjit Singh)
Judge

hsp