

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1532 of 2014 (O&M)
Date of Decision: April 08, 2016

Rajbir and others

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajiv Parshad, Advocate
for the petitioners.

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

Ms.Sharmila Sharma, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners, challenging the impugned order dated 13.02.2014 passed by learned Addl. Sessions Judge, Sonipat, vide which the application under Section 319 Cr.P.C. was allowed and present petitioners were ordered to be summoned to face trial.

Notice of motion was issued and learned State counsel as well as learned counsel for the complainant 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 Lalit, Rajbir, Panjab, Anup, Naresh @ Ghisu, Sudesh and Santosh as additional accused to face trial along with accused Bijender and others, who are facing trial in case FIR No.190 dated 26.05.2013 under sections 148, 149, 364, 302 IPC and Section 25 of the Arms Act registered at Police Station Ganaur. Learned Addl. Sessions Judge, Sonipat, after going through the evidence on record, by passing detailed order, allowed the application under Section 319 Cr.P.C. partly by summoning Lalit, Rajbir, Panjab, Anup and Naresh @ Ghisu-present petitioners to face trial along with other accused already facing the trial.

The perusal of the FIR, copy of which is Annexure P-1 shows that present petitioners have been named in the FIR. It is stated in the FIR that on 25.05.2013 at about 11.00 p.m., complainant Ishwar Singh and his brothers were fired upon and the said fire shots had struck at their doors. On 26.05.2013 at about 5.00-5.30 p.m., when his brother Jagminder was present in the panchayat land, which is adjoining to the land of Bijender, at that time, Bijender, Sandeep, Ghisu and his 7-8 other friends came and gave beatings to Jagminder. Then Jagminder informed his brother Surrender about the aforesaid incident. On this, Surrender on his motorcycle went to Jagminder along with complainant. When they reached, all the aforesaid persons gave beatings to Surrender and put him in the Scorpio and fled away. The complainant then informed Satyawan about the incident on telephone, meanwhile complainant and his

brother Jagminder chased the aforesaid vehicle on their motorcycle. On entry to the village, all of them stopped their vehicles in front of the house of Deep Chand. Sandeep also stopped his motorcycle. Satyawan and Pardeep and about 100 persons were present in front of the house of Deep Chand. Bijender etc. got complainant's brother Surender out of the vehicle. In the mean time, complainant and Jagminder also reached the spot. Bijender and his nephew Panjab, Anup and Ghisu alighted from the Scorpio. Bijender was holding a rifle whereas Panjab was armed with country made pistol. Anup was holding country made pistol and Ghisu was armed with a gun. Rajbir and elder son of Bijender (Lalit) along with his other friends came out of his swift car whereas Sandeep was already there. Rajbir was holding .315 bore country made pistol, elder son of Bijender (Lalit) was armed with .315 bore country made pistol and others were also armed with weapons. Bijender raised *lalkara* that they should be taught a lesson for holding the post of Sarpanch of the village. Then Rajbir from his .315 bore country made pistol and Panjab from his country made pistol and elder son of Bijender from his country made pistol fired shots upon Satyawan. Bijender from his licenced rifle of .315 bore and Anup from his country made pistol fired two shots upon Surender. Sandeep and Ghisu also fired from their respective weapons upon the complainant but he saved. Sudesh wife of Bijender and wife of Rajbir brought cartridges in bags and handed over to Bijender etc. On receiving fire arm injuries, Satyawan and Surender fell down at the spot. Both of them were taken to PGI Khanpur but on

the way, both of them succumbed to the injuries.

When the complainant appeared in the witness box, he again deposed same facts as stated in the FIR.

Keeping in view the fact that complainant is eye witness to the occurrence and in the FIR as well as in the statement, he has stated that the petitioners were armed with fire arm weapons and they have also fired upon from their respective weapons and two persons namely Surrender and Satyawar have been killed, shows that it appears to the Court that these persons are involved in the commission of the offence and they should be tried together with the accused already facing the trial.

The perusal of the impugned order, which is detailed one and has been passed by discussing the evidence etc., shows that in no way, the findings can be held as illegal or perverse. The findings given by learned Court below are correct and as per law. The fact whether the present petitioners were present on the spot or not or whether they have been falsely implicated in the present case due to earlier enmity, are the facts, which are to be decided by the trial Court on the basis of evidence of the prosecution as well as defence evidence etc. The mere fact that the police has found the petitioners as innocent, is no ground to dismiss the application under Section 319 Cr.P.C. Again, learned counsel for the petitioner argued that so many FIRs are registered against the complainant party, is also no ground to dismiss the application. All these facts are to be seen by the trial Court on the basis of evidence produced before it. At this stage, it appears

to the Court that the present petitioners are involved in the commission of the offence and should face trial along with the accused already facing the trial.

In view of the above discussion, I find that the impugned order dated 13.02.2014 passed by learned Addl. Sessions Judge, Sonipat 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 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE