

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

**CRR-1788-2014 (O&M)
Date of decision : 21.11.2016**

Fakruddin

...Petitioner

Versus

Sorab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Aditya Jain, Advocate for the petitioner.

Mr. Vipul Aggarwal and Mr. Rajesh Arora, Advocates,
for respondent Nos.1 to 8.

Mr. Neeraj Poswal, AAG, Haryana,
assisted by ASI Tara Chand.

Mr. Y.P. Khullar, Advocate,
for respondent No.10.

None for respondent Nos.11 to 13.

JITENDRA CHAUHAN, J.

The instant revision petition is directed against order dated 28.04.2014, passed by learned Additional Sessions Judge, Palwal, whereby, the application moved by the prosecution for summoning respondent Nos.1 to 8 and 11 to 13, as additional accused, has been dismissed.

It is contended that the accused-respondents sought to be summoned have been specifically named in the FIR and specific role has been attributed to each one of them. All the accused had inflicted injuries to Fakruddin, Hamid, Hassan, Sakir and Asluddin. It is further stated that the

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authenticity of this document
Chandigarh

names of accused-respondents sought to be summoned have also come in the statements of PWs 1 to 3.

On the other hand, learned counsel for the accused-respondents have opposed the instant petition.

Heard.

The controversy regarding summoning under Section 319 Cr.P.C. has been settled by Hon'ble the Apex Court in '**(2014) 3 SCC 92, Hardeep Singh Vs. State of Punjab and others**'. Their Lordships have held as under:-

“Though under [Section 319\(4\)\(b\)](#) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under [Section 319](#) Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.”

In the instant case, as many as fifteen persons were named as accused by the complainant in the FIR. After investigation, **Challan** was

presented only against four persons and the remaining eleven accused were kept in column No.2. There is no denying the fact that the accused now sought to be summoned have been named by PW-1 Sakir, PW-2 Asluddin and PW-3 complainant, Fakuiddin. However, beyond that, there is nothing on record to make out a 'more than prima facie' case against the accused-respondents.

In this view of the matter, this Court feels that learned trial Court has rightly dismissed the application moved by the petitioner under Section 319 Cr.P.C. No case for interference is made out.

Dismissed.

21.11.2016

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**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No