

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

220

CRR-1812-2015

Date of Decision: February 2, 2016

CHAVI RAJ

.....PETITIONER

VERSUS

STATE OF HARYANA & ANR

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: Mr.Angel Sharma, Advocate for the petitioner

Mr.Vikas Malik, DAG, Haryana

Mr.S.K.Panwar, Advocate for the respondent No.2

M.M.S.BEDI, J.(Oral)

Petitioner is aggrieved by order dated 16.3.2015 passed by Additional Sessions Judge, Faridabad dismissing application under Section 319 Cr.P.C. for summoning Devender respondent No.2 as additional accused on the ground that he was present on the spot as per the statement of the petitioner made in the Court as PW1. It has been argued that it is established that he had caught hold of the deceased Mohit while his brother Ravinder shot him. The petitioner has been declared innocent.

I have gone through the report of declaring respondent No.2 as innocent on the ground that he was seen in CCTV footage at a place in McDonalds restaurant at Delhi.

Counsel for the petitioner vehemently contended that the petitioner has been able to demonstrate before the trial Court while he was appearing as witness that he could even be shown present in the house of a private person, Nathi Ram.

No doubt time of the CCTV footage could be changed and manipulated but such an act could be done at a public restaurant at the will of a person who is accused in a case, is a debatable issue.

Counsel for the petitioner argued that the plea of alibi can be availed only as a plea of defence by an accused.

With the assistance of the State counsel and counsel for the complainant, I have gone through the record regarding alibi of respondent No.2 and the other records indicating the absence of respondent No.2 on the spot. Taking into consideration the stage of the case and the report and other material on record, I do not find any ground to interfere in the order of Additional Sessions Judge, Faridabad.

Dismissed.

It is, however, observed that nothing said in this order will prejudice the rights of the parties during trial.

February 2, 2016
TSG

(M.M.S.BEDI)
JUDGE