

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRR No.2032 of 2015 (O&M)
Date of decision: February 08, 2016.

Mast Ram and another

... **Petitioners**

v.

State of Haryana and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

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

Mr. M.S. Sidhu, Additional Advocate General, Haryana.

Mr. G.S. Sidhu, Advocate for respondent No.2.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Impugned in the present revision petition is the order dated 18.3.2015 passed by learned Additional Sessions Judge, Sirsa (Annexure P-1) vide which, in an application under Section 319 Cr.P.C. moved by complainant Ajay Kumar, petitioners Mast Ram and Satpal were summoned as additional accused to face trial.

At the time of arguments, learned Counsel for the petitioners does not press the revision qua Mast Ram and presses the same qua Satpal only.

I have heard learned Counsel for the parties.

Allegations against Satpal are that when the complainant

party was assaulted, Satpal caught hold of Ajay Kumar complainant with the help of a *danda*. No injury is attributed to the petitioner Satpal. During investigation, petitioner Satpal was found innocent. The lower court has considered the authority of Hardeep Singh v/s State of Punjab, 2014(1) RCR (Crl.) 623 wherein it was held that for summoning under Section 319 Cr.P.C., more stronger evidence than mere probability of complicity is required. Therefore, the test to be applied for passing summoning order under Section 319 Cr.P.C. is that a case is more stronger than a prima facie case. In the present case, Satpal was found innocent during investigation. The allegation against him was that he was carrying danda and in place of attacking the complainant party, he merely held up Ajay Kumar with the help of *danda*. I am of the view that merely on the basis of said statement, Satpal cannot be convicted and it cannot be said that the test of much stronger evidence than its mere probability of his complicity is satisfied.

It being so, the impugned order qua Satpal petitioner is set aside. The present petition is allowed to the above noted extent.

February 08, 2016.
kadyan

[Kuldip Singh]
Judge