

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

CRR-2118-2015

Date of Decision: February 12, 2016

PARVEEN KUMAR

....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Brijender Kaushik, Advocate
for the petitioner.

Mr. Aproov Garg, DAG, Haryana.

Mr. V.R. Lamba, Advocate
for respondent Nos.2 to 4.

NARESH KUMAR SANGHI, J.

Challenge in the present Criminal Revision Petition is to the order dated 20.05.2015, passed by learned Additional Sessions Judge, Ambala whereby the application moved under Section 319 Cr.P.C. for summoning of the additional accused, namely, Amandeep @ Aman Kumar @ Amana, Vikas @ Bunti and Devender @ Sonu was dismissed.

Learned counsel for the petitioner/informant submits that perusal of the FIR (Annexure P-1), deposition of Parveen Kumar-PW-2 (Informant/injured) and that of Mohit,

an eye-witness of the occurrence, would clearly spell out that Aman Kumar, Vikas and Devender who were armed with wooden sticks (Danda) and iron rod had participated along with their co-accused Arvind @ Monu and Dharminster @ Gangi in the occurrence and caused injuries to Parveen Kumar-PW-2. He further submits that the learned trial Court had been swayed by the fact that the injuries allegedly received by Parveen Kumar-PW2 could not be caused by wooden stick and iron rod which is apparently wrong. The injured Parveen Kumar-PW2 has received total six injuries out of which two were incised wounds on the scalp while other were abrasion, lacerated wound and punctured wound on various parts on the person of Parveen Kumar-PW2. He further submits that the prosecution was able to substantiate more than *prima facie* case to summon the private respondents as an additional accused to face trial along with Arvind and Dharminster who were already facing trial. In support of his contention, learned counsel has placed reliance on **“Hardeep Singh Vs. State of Punjab & Others 2014 (1) RCR (Criminal) 623 (SC)”**.

Learned counsel for the State very fairly conceded that injuries alleged to have been received by Parveen Kumar very well be caused by gandasi, danda and iron rod. He further concedes that more than *prima facie* evidence has emerged from the record to summon the private respondents.

Learned counsel for the private respondents has vehemently opposed the submissions made by learned counsel for the petitioner and submits that during investigation, it was found that the private respondents were not present on spot; a cross case between the private parties was going on and there were bright chances of the exaggeration and false implication of the respondents; the injuries alleged to have been received by Parveen Kumar-PW2 were possible from a fall from motorcycle and that Dharminster @ Gangi, who is already facing the trial, was armed with a wooden stick (Danda) and he had caused injuries to Parveen Kumar-PW2 and as such, the trial Court has rightly opted not to summon the private respondents. He further submits that ratio of the case which was relied upon by learned counsel for the petitioner would not be applicable to the facts and circumstances of the present case.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

A perusal of the FIR and the deposition of Parveen Kumar (PW-2) would clearly spell out that while lodging the FIR (Annexure P-1) he has specifically named Aman Kumar, Vikas and Devender and it was further alleged that they used wooden sticks and rod to cause injuries to him. The medical evidence available on record would strengthen the deposition of Parveen

Kumar-PW2 that multiple injuries were received by him including two incised wounds on the scalp, abrasion on the right elbow, lacerated wound on the right knee joint, punctured wounds on the right forearm and multiple abrasions. The finding of the learned Trial Court appears to be *prima facie* wrong when it has been concluded that the injuries on the person of Parveen Kumar-PW2 could not have been caused by wooden stick and rod.

Since the prosecution has made out more than *prima facie* case for summoning of private respondents to face trial with their co-accused, therefore, impugned order passed by learned Additional Sessions Judge whereby the application for summoning of the private respondents was declined is *set aside* and it is directed that Aman Kumar, Vikas and Devender be summoned to face trial along with their co-accused already facing the trial. The respondents, Amandeep @ Aman Kumar @ Amana, Vikas @ Bunti and Devender @ Sonu are directed to appear before learned trial Court on 17.02.2016. Learned counsel representing them assures that they shall be directed to appear before the Court on the said date.

A copy of the order be immediately sent to the learned Trial Court.

(NARESH KUMAR SANGHI)
JUDGE

February 12, 2016
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