

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

CRR No. 132 of 2016 (O&M)

Date of decision : 05.02.2016

Kallu & anr.

....Petitioners

V/s

State of Haryana & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sarfraj Hussain, Advocate for the petitioners.

RAJAN GUPTA J.

Petitioners are aggrieved against the order 15.10.2015 passed by Sessions Judge, Mewat whereby they have been summoned under section 319 Cr.P.C. to face trial for commission of offence under sections 323, 325, 326, 365 and 367 read with section 34 IPC.

Learned counsel for the petitioners submits that petitioners have been summoned as an additional accused to face trial. He contends that when complainant stepped into the witness box, he named the petitioners alongwith other accused facing trial. On the basis of this statement, petitioners have been summoned under section 319 Cr.P.C. According to him, trial court without appreciating the evidence on record has wrongly summoned the petitioners. Thus, impugned order deserves to be quashed.

I have heard learned counsel for the petitioners.

Brief factual background of the case is that on 16.04.2014 at about 9.00 p.m. complainant Aarif along with his cousin was going to his house at village Pithorepuri from Badkali

crossing. When they reached in front of the house of one Azad Mohhmad, one swift car along with two motorcycles were parked there. Accused Imran Barra, Sakir, Kallu, Nisar along with three other accused were present there. They all lifted the complainant and put him in the parked swift car. He was then taken to forest on Karhera-Karheri road where accused Imran gave a knife blow in his right hand. Accused Barra gave a rod blow on both the legs of the complainant. When he fell down, accused Sakir and Kallu sat on his chest. At this time, accused Nasir gave rod blows on both the legs of the complainant and inflicted various injuries. He was thrown in front of the house of Rakib. Later, he was admitted in a hospital at Mandikhera. On this complainant, FIR was registered by the police. After completion of investigation, investigating agency gave clean chit to accused Kallu and Nisar (petitioners herein). However, challan against rest of the accused was presented before the competent court. Finding prima facie case under sections 325, 326, 365 & 367 read with section 34 IPC, charge was framed against the accused. During trial, PW1 Dr. Rajbir, PW2 Ravi Kant, PW3 Mohhmad Iqbal, PW4 Suraj, PW5 Dr. Praveen and PW6 Aarif (complainant) deposed before the court. During examination in chief of PW6 Aarif (complainant), he specifically named the petitioners along with other accused facing trial and attributed specific role and injuries to them. At this stage, complainant moved instant application under section 319 Cr.P.C. for summoning of the petitioners. On this application, trial court felt that petitioners need to be summoned as additional accused to face trial for commission of offences under sections 323, 325, 326, 365 and 367 read with section 34 IPC. I find no infirmity with the order. It is evident that

trial court has summoned the accused on the basis of available evidence on record. Name of the petitioners figured even in the initial version of the FIR. Complainant stepped into the witness box as PW-6. He stated that petitioner no. 1 Kallu sat on his chest while petitioner no. 2 Nisar gave a rod blow on his both legs. Both the legs of the complainant were broken. In view of specific role attributed to the petitioners, I do not find any ground to interfere in well reasoned order passed by the court below. It appears that order passed by the trial court is within the parameters laid down by judgment titled as *Hardeep Singh vs. State of Punjab & ors. 2014(1) RCR (Criminal) 623*. Revision petition is, thus, without any merit and is hereby dismissed.

February 05, 2016

Ajay

(RAJAN GUPTA)
JUDGE