

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.140 of 2016 (O&M)****Date of Decision: February 24, 2016**

Mohammed Yunush

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Rajesh Lamba, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision petition has been filed by the petitioner Mohammed Yunish against State of Haryana and other respondents, challenging the impugned order dated 01.12.2015 passed by learned Addl. Sessions Judge, Mewat, whereby the application under Section 319 Cr.P.C. filed by the prosecution was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that challan was present by the police against accused Sagoon etc. and an application under Section 319 Cr.P.C. was filed by the prosecution for summoning of Hussana, Ibrahim, Fakru, Juber, Farukh s/o of Suzban, Farukh s/o Resham, Raju and Ashu. It is stated in the application that Mohd. Yunus has

been examined as PW-6 and said PW-6 in his deposition before the Court has categorically deposed in respect of these persons regarding their involvement that these above-said persons also inflicted injuries and illegally abducted the victim in collusion with each other and said deposition of PW-6 finds the support from his version of FIR/complaint.

Learned Addl. Sessions Judge, Mewat, after discussing the evidence and the version of the complainant as well as statement of PW-6 Mohd. Yunus, reached to the conclusion that there is no legal evidence against the proposed accused. Only general allegations are levelled against these persons and further the version is discrepant.

From the record, I find that complaint was lodged by the complainant on the same day of occurrence i.e. on 15.09.2014. The complainant Bhugdar stated that his brother Yunus was going from Karheri village to his village Khanpur Nuh on his motorcycle. When he crossed village Mandi and reached Delhi-Alwar road, then one white Bolero came. Bolero was parked in front of motorcycle of his brother and motorcycle fell down and from Bolero 7-8 persons got down, who were carrying lathi and illegal weapons. They gave beatings to complainant's brother there and abducted him. It is further stated by the complainant that he has suspicion that Hussain Singh etc. abducted his brother.

The victim Mohd. Yunish got recorded his statement under Section 164 Cr.P.C. on 24.09.2014 before learned JMJC, Firozpur Zhirka, in which he stated that they started from their house after the

school was over. Illiyas Master called him on phone that they will go together. He took Master from village Bhadas on his motorcycle and started for their house. When they reached village Mudhy, then one Bolero and two motorcycles stopped near their motorcycle and thereafter, the accused who was driving the motorcycle caught his neck from behind. Accused had muffled their faces. He tried to run away after freeing himself but accused put a country made pistol pointing towards him and put him in Bolero while beating him. The number of Bolero was RJ-UA-2207. He further stated that accused took him near the mountain of Alwar at house of Aashu, where he was kept tied for 10 days and accused beat him and he gave the names of accused Hussain, Ibrahim, Faku, Juber, Ramgarh Faruk, Raju and Sahubudin.

The perusal of statement of Bughdar as given in the complaint as well as in the FIR and statement of Mohd. Yunus, shows that these are totally contradictory. There are different versions. The complainant has nowhere stated that there were two motorcycles. Even the Investigating Officer in this case has also been examined and in cross-examination, he stated that during his investigation, he did not find Mohd. Yunus anywhere or in illegal confinement of anyone. The complainant Bughdar has not stated that any other person was on the motorcycle of the victim. He has also not stated regarding two motorcycles with the Bolero. He is eye witness. So, the version given by PW-6 Mohd. Yunus in the Court and also in the statement under Section 164 Cr.P.C. is contradictory on material

points. In the statement under Section 164 Cr.P.C., the victim has stated that accused were with muffled faces but in the statement given in the Court as PW-6, he stated he had seen their faces.

It is settled law that to summon a person under Section 319 Cr.P.C. as additional accused, it should appear to the Court that the person, which the prosecution wants to summon as additional accused is involved in the commission of the offence and he should be tried along with other accused already facing the trial. From the facts and circumstances of the present case, it does not appear to the Court that the persons sought to be summoned as additional accused are involved in the commission of the offence and they should be tried along with other accused already facing the trial. There are only general allegations. No specific allegation or injury has been attributed to any of the co-accused. No weapon has been specifically mentioned in the complaint.

In view of the above discussion, I find that the order dated 01.12.2015 passed by learned Addl. Sessions Judge, Mewat, dismissing the application under Section 319 Cr.P.C., is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above will constitute my opinion on merits of the case.

February 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE