

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

CRR No. 2596 of 2015

Date of decision : 17.03.2016

Khalil Azad

....Petitioner

V/s

State of Haryana & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. Arun Luthra, AAG Haryana.

Mr. Sarfraz Hussain, Advocate
for respondents no. 2 to 10.

RAJAN GUPTA J.

Petitioner is aggrieved against order dated 02.06.2015 passed by Additional Sessions Judge, Palwal whereby his application for summoning additional accused under section 319 Cr.P.C. has been rejected.

Learned counsel for the petitioner contends that specific role is attributed to private respondents. According to report of the doctor, injuries were also caused by private respondents. Trial court has erroneously decided the matter without considering the ratio of judgment in *Hardeep Singh vs. State of Punjab & ors.* 2014(1) RCR (Criminal) 623.

Prayer has been opposed by learned counsel representing private respondents. According to him, petitioner has merely tried to arraign as many accused as possible. Trial court has rightly rejected plea for summoning under section 319 Cr.P.C.

I have heard learned counsel for the parties.

FIR was lodged on the complaint of Khalil Azad (petitioner herein). He alleged that on 19.05.2012 at about 6.00 p.m. he alongwith his brother Samim had parked his vehicle at Jayanti Morh, Hathin and were talking with each other. At that time, accused Ishak alongwith four persons including a gun man came there in a scorpio vehicle. He stopped his vehicle and extended threats to him. On 20.05.2012, mother of complainant fell ill and at about 10.30/11.00 o'clock, his sister Sarwari, his brother in law Jamshed and his brother Samim took his mother in a car to Palwal for treatment. The complainant was, however, following them in the Innova car. As soon as the vehicle of the complainant reached near the house of Jitu, accused Jom Khan and Wahid, who were already standing there, hit into the vehicle of complainant with their respective tractors with intention of kill him. Due to impact, Innova car of the complainant got damaged and was trapped in between. Complainant immediately came out of his car and started running. At this stage, accused Ishak exhorted other accused to kill the complainant. Number of persons from the accused side came on the spot armed with sharp edged weapons. Accused Majjar, Najakat & Mukki caught hold of the complainant. They dragged him to the house of Jitu and Jamshed where accused Nasir gave stick blows below the knee of his left leg and accused Arshad gave axe blow with intention to kill which hit him below the knee of his right leg. Accused Saddam and Subhan gave stick blows on his both hands and toes. Accused Jitu took the driving license and a black berry mobile phone kept in the pocket of complainant whereas accused Fatti took his wrist watch, health policy card and other documents. Other accused also assaulted the

complainant. On hearing his cries, his sister namely Sarwari, brother-in-law and his brother got down from the other car and saved him. Pursuant to FIR, investigation ensued. Seventeen persons were arrayed as accused. Out of them, eight were found guilty and challan was presented against them. Nine were shown in column no. 2 of the report under section 173 Cr.P.C. During pendency of trial, Khalil Azad (petitioner herein) deposed as PW1. On the basis of his statement, application was moved by the prosecution for summoning additional accused in view of provisions of section 319 Cr.P.C. Plea was rejected by the trial court observing that negligible role has been attributed to the private respondents. I find no infirmity with the order. Admittedly, eight accused are already facing trial for assaulting the complainant's side. From the evidence on record, it is not possible to conclude that there is probability of conviction of private respondents. Thus, findings arrived at are within the parameters laid down by judgment in Hardeep Singh's case (supra). Revision petition is, thus, without any merit and is hereby dismissed.

March 17, 2016

Ajay

(RAJAN GUPTA)
JUDGE