

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

**CRR No. 1574 of 2016 (O&M)
DECIDED ON: APRIL 27, 2016**

RAVINDER KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Present: Mr. Keshav Pratap Singh, Advocate
 for the petitioner.

JASPAL SINGH, J

CRM No. 13535 of 2016

In view of averments made in the application, the same is allowed and delay of 13 days' in filing the instant petition is condoned.

CRR No. 1574 of 2016

By virtue of this revision petition, petitioner has challenged the order dated January 04, 2016 passed by learned Additional Sessions Judge, Gurdaspur whereby, an application under Section 319 Cr.P.C. moved by prosecution for summoning Rajesh Kumar @ Ravi Kumar and Som Nath @ Goldy as an

additional accused to stand trial alongwith their co-accused in FIR No. 24 dated 29.06.2015 registered at Police Station Kotli Surat Malhi under Sections 307 and 34 IPC and Sections 25, 27, 54 and 59 of Arms Act, has been dismissed.

2. The contention of learned counsel for the petitioner is that the impugned order is absolutely against the evidence available on file and settled cannons of law. Misappreciation of evidence brought on record by the prosecution has resulted into miscarriage of justice. No doubt Rajesh Kumar @ Ravi Kumar and Som Nath @ Goldy were found innocent during investigation and at the time of presentation of challan their names were mentioned in column No.2 of the report. But when Ravinder Kumar-complainant appeared in the witness box before learned trial Court, he has attributed a specific role to both of them. He has categorically deposed that on June 29, 2015 at about 4.30 PM when a religious procession was reached near the house of Kuldeep Singh, he spotted Kuldeep Singh, Rajesh Kumar @ Ravi Kumar and Som Nath @ Goldy standing outside the house of Kuldeep Singh. Kuldeep Singh rushed towards his house and brought 12 bore double barrel gun and fired a shot in the air and Som Nath and Ravi Kumar exhorted and propped Kuldip Singh to kill Akarshit son of Ravinder Kumar on which Kuldeep Singh fired another shot from his gun with an intention to kill Akarshit which hit on his right arm and Akarshit fell down. Thereafter, Kuldeep Singh alongwith Ravi Kumar and Goldy fled away from the spot. But the testimony of Ravinder Kumar has been ignored and disbelieved by learned trial Court while declining the application under Section 319 Cr.P.C. Since there is specific role attributed to Rajesh Kumar @ Ravi Kumar, and Som Nath @ Goldy, the impugned order is not sustainable in the

eyes of law and is liable to be set aside. Consequently, application moved by the prosecution under Section 319 Cr.P.C. deserves to be allowed.

3. After bestowing due consideration to the above-said submissions made by learned counsel for the petitioner and scrutinizing the impugned order, this Court does not find any substance.

4. Undoubtedly, Ravinder Kumar-complainant is the author of the FIR. A perusal of FIR transpires that he has simply spotted Rajesh Kumar @ Ravi Kumar, Som Nath @ Goldy standing near the house of Kuldeep Singh situated on the way of religious procession in which he (Ravinder Kumar) was also participating but while appearing in the witness box as PW-1 he has exaggerated his version alleging that Ravi Kumar and Goldy instigated or exhorted Kuldeep Singh to kill him and his son Akarshit upon which Kuldeep Singh fired shot from his double barrel gun, which resulted into infliction of injuries on the right arm on the person of Akarshit. The improvement in the version unfolded by Ravinder Kumar while appearing in the witness box as PW-1 is suggestive of the fact that he has created an after thought story just to involve Rajesh Kumar @ Ravi Kumar and Som Nath @ Goldy. Moreover, it can also be safely inferred that there is an active participation of Ravi Kumar and Goldy, who have been sought to be summoned as an additional accused. Here it can also be said that there is no evidence brought on record by the prosecution after the conclusion of investigation during the investigation of this case to summon Rajesh Kumar @ Ravi Kumar, Som Nath @ Goldy as an additional accused.

5. This Court is of the considered view that impugned order is absolutely in consonance with the evidence available on file and settled canons

of law. There is no infirmity or illegality in the impugned order so as to interfere with it by invoking the provisions contained under Section 401 Cr.P.C.

6. In the light of what has been discussed above this Court does not find any merit in the instant petition. As such, the same is dismissed.

APRIL 27, 2016
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(JASPAL SINGH)
JUDGE