

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-1782 of 2016 (O&M)
Date of decision: 23.5.2016

Sarup Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ankur Bansal, Advocate for the petitioner(s).
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J. (oral)

This order shall dispose of two CrI. Revisions i.e. CRR-1782 of 2016, filed by Sarup Singh and CRR-1429-2016 filed by one Jatin, against the order dated 19.01.2016, passed by the trial court, whereby it has invoked its power under section 193 Cr.P.C. to summon the petitioners as additional accused in the case.

Order has been assailed primarily on the ground that the investigating agency had sought discharge of the accused in its report under section 173 Cr.P.C. Trial court went beyond its powers while rejecting the application and summoning the accused in exercise of powers under section 193 Cr.P.C. Besides no evidence is available against the petitioners to summon them.

Prayer has been opposed by the State counsel. He (on instructions from ASI Paramjit Singh, who is present in court) submits that both petitioners absconded during the period of investigation. All accused

were found guilty. Two challans were presented thereafter, one against six accused and other against five accused. In the investigation all accused including the petitioners were found guilty. Petitioners Jatin and Sarup Singh were, however, declared proclaimed offenders. A mention was made in the final report that rest of the accused were yet to be arrested.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears that an incident took place on 01.05.2014. One Dimple Kumar stated that he was working outside his shop. At about 2.00 P.M., the accused came there armed with various weapons. They assaulted him with *Kirpan*, baseball, bats and *dattars* etc. When he was lying on the ground, at that time kick blows were given to him. After committing the crime, accused fled from the scene. He was taken to Civil Hospital, Kartarpur, from where he was referred to a private institution. Number of injuries were caused on the person of injured/complainant. On his statement, investigation ensued. Investigating agency found all the accused guilty of the crime. It initially submitted challan against five accused on 4.7.2014. Another challan was submitted against six accused on 21.01.2015. The petitioners, however, could not be apprehended by the police, thus, they were declared proclaimed offenders. It appears, during the pendency of trial, a police official took up further inquiry/investigation of the matter without seeking permission of the court and submitted a supplementary report in terms of Section 173 (8) Cr.P.C. seeking discharge of accused Jatin and Sarup Singh. The trial court considered the report and rejected the plea of discharge. It observed that evidencery value of the

enquiry conducted by the police officials would be evaluated during the trial. It also invoked powers under section 193 Cr.P.C. and summoned petitioners Jatin and Sarup Singh. I find no infirmity with the order passed.

Both the petitions are dismissed.

CRM-15432-2016 in CRR-1782-2016:

Since the main revision petition has been dismissed on merits, this application for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

23.5.2016
'Rajpal'