

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

**CRR No.2986 of 2015(O&M)
Date of Decision: August 30, 2016**

Pardeep Hooda

...Petitioner

VERSUS

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Rai, Senior Advocate with
Mr.Anurag Arora, Advocate
for the petitioner.

Mr.Vikas Chopra, Deputy Advocate General, Haryana
for the respondent-State.

Mr.N.S.Shekawat, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Pardeep Hooda against respondents State of Haryana, Satish and Kuldeep, challenging the impugned order dated 03.07.2015 passed by learned Addl. Sessions Judge, Sonipat, vide which the application filed by the complainant/prosecution under Section 319 Cr.P.C. was dismissed.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.2 and 3 appeared and contested the petition.

I have learned counsel for the parties as well as learned State

counsel and have gone through the record.

From the record, I find that the challan was presented in case FIR No.277 dated 18.09.2014 under Sections 323, 506, 302 and 34 IPC registered at Police Station Rai, District Sonipat. An application was filed by the prosecution under Section 319 Cr.P.C. to summon Satish and Kuldeep as additional accused to face trial along with accused Manjeet and Ranbir, who are already facing the trial. It is mainly stated in the application that complainant has duly disclosed names of above said persons in the FIR by narrating their specific roles, however, police put the above said persons in column No. II of the challan and the investigating agency did not investigate the matter in a fair manner. It is also in the application that complainant in his deposition as PW-1 has specifically named these persons and described their roles.

As per the prosecution version, a telephonic message was received by the police qua admission of Pardeep and Sandeep sons of Raghbir in General Hospital, Sonapat after receiving injuries in a quarrel and. Then statement of injured Pardeep Hooda was recorded. As per the complainant's version, his brother Sandeep requested his cousin Ranbir to remove earth from the drain, upon which said Ranbir became furious and gave a *kassi* blow on the head of his brother Sandeep. In the meantime, Manjeet also brought sword and gave a sword blow on the head of his brother Sandeep and when he (complainant) went to save his brother Sandeep, then Ranbir gave a *kassi* blow on his head as well. It is further alleged that Satish and Kuldeep also came at the spot, having *lathis* in their hands and Satish gave *lathi* blows on his left shoulder as well as on his hip

when they raised alarm then their family members and some neighbours came at the spot and rescued them from the clutches of accused.

Learned Addl. Sessions Judge, Sonipat vide impugned order datd 03.07.2015, dismissed the application under Section 319 Cr.P.C. Learned Addl. Sessions Judge, Sonipat discussed the contents of the FIR, injuries as per the MLR and statement of the complainant recorded in the Court. As per the MLR of deceased Sandeep, he had received only one injury i.e. lacerated wound of size 4 x 2 cm over parietal region of head, besides, pain in head reported and as per the MLR of complainant Pardeep, again one injury i.e. lacerated wound of 4 x 2 cm over parietal region of head, besides complaint of pain in B/L shoulder as well as complaint of pain in back with no external injury seen. As per the post mortem examination report of deceased Sandeep, again one injury was reported on the fronto-parieto temporal region.

It is settled law that at the time of summoning a person as additional accused under Section 319 Cr.P.C., it should appear to the Court that the person sought to be summoned as additional accused, is involved in the commission of the offence and should be tried along with other accused already facing the trial. No external injury was found on the person of the deceased or on the complainant, which are attributed to Satish and Kuldeep with lathis. No external injury was found present and there was only complaint of pain. Both these persons Satish and Kuldeep are found innocent during investigation and mere mentioning of names in the FIR or narrating the name of the persons by the complainant, itself will not be sufficient to summon them in the application under Section 319 Cr.P.C.

From the record, I find that it does not appear to the Court that

Satish and Kuldeep are involved in the commission of the offence and they should be tried along with the accused already facing the trial.

In view of the above discussion, I find that impugned order dated 03.07.2015 passed by learned Addl. Sessions Judge, Sonipat, is correct, as per law and does not require any interference from this Court.

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

August 30, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No