

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

**CRR No.1984 of 2016 (O&M)
Date of Decision: October 17, 2016**

Jasmer Singh and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Akashdeep Singh, Advocate
for the petitioners.

Mr.B.S.Virk, Deputy Advocate General, Punjab
for the respondent-State.

Mr.Yogesh Goel, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Jasmer Singh and Mukhtiar Singh under Section 401 Cr.P.C. against respondents State of Haryana and Baljinder Kaur, challenging the impugned order dated 29.03.2016 passed by learned Addl. Sessions Judge, Sirsa, vide which the petitioners along with one Sandeep Kumar were summoned as additional accused to face trial under Sections 460, 323, 324, 325, 307 read with Section 149 IPC.

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

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

State counsel and have gone through the record.

From the record, I find that challan was presented in case FIR No.164 dated 07.06.2014 under Sections 307, 452, 325, 324, 323, 506 read with Section 34 IPC registered at Police Station Ellenabad against Ajmer Singh, Mandeep Singh, Kamaldeep Singh @ Kamal and Sunil Kumar. During the trial, an application was filed under Section 319 Cr.P.C. by the complainant through learned Public Prosecutor for summoning present petitioners Jasmer Singh, Mukhtiar Singh along with Sandeep Kumar, Ajaib Singh and Gurpreet Singh as additional accused. It is stated in the application that FIR against the accused persons as well as above-said five persons was lodged but the police did not challan them. The names of the above-said persons were mentioned in the statement of injured Sukhbir Singh recorded under Section 161 Cr.P.C. and injured Sukhbir Singh when appeared in the witness box as PW-1, he named the aforesaid persons and specifically deposed about their role.

Learned Addl. Sessions Judge, Sirsa, in the order dated 29.03.2016, noted down the brief facts of the prosecution case, which are as under:-

“2. Brief facts of the prosecution case are that on 7.6.2014 on receipt of a telephonic message regarding admission of injured Sukhbir Singh son of Gurdeep Singh, police party reached in CHC Ellanabad and came to know that the injured Sukhbir Singh has been referred to General Hospital, Sirsa. Thereafter, the police party reached there where the injured was declared unfit to make statement by the attending Doctor and the injured was referred to Higher Institute but was brought to Aastha Hospital, Sirsa. The police party reached there, where also the injured was declared unfit to make statement. Hence, statement of Baljinder Kuar, sister of the injured was recorded. She stated that she is having two brothers namely, Jasbir Singh and Sukhbir Singh. Sukhbir Singh was married to Jasbir Kaur d/o Hardeep Singh and two sons were born from their wedlock. About 3-4 days ago, Ajaib

Singh, brother of father-in-law of Sukhbir Singh along with his son and 2-3 others had threatened to kill her brother and has also asked her to give in writing that she would not take any action. On 7.6.2014 she came to know that her brother Sukhbir Singh has been assaulted by some one during the night. She and her maternal uncle Balwinder Singh went to village Mirjapur where she saw that the mouth of her brother was bleeding and he had received several injuries on his head, back, legs and hands.”

The perusal of the FIR, especially the statement of injured Sukhbir Singh shows that the present petitioners Jasmer Singh and Mukhtiar Singh are named by him. Sukhbir Singh as PW-1 has also deposed that on the intervening night on 6/7.6.2014 at about 3.30 A.M., Ajmer Singh, Jasmer Singh, Mandeep Singh, Mukhtiar Singh, Sunil, Sandeep, Kamaldeep, Gurpreet Singh and Ajaib Singh came to his house. Accused Mandeep Singh gave a *danda* blow on his mouth. Accused Ajmer Singh was having one sharp edged weapon and he gave blow on his head. Jasmer Singh gave a *dattar* blow on his head. When he turned, suddenly accused Mandeep gave a *danda* blow on his thigh. PW-1 Sukhbir Singh further stated that when he was going, accused Kamaldeep and Sunil caught hold of his hands and thereafter, Mukhtiar Singh shouted that they will not leave him and they will kill him on that day itself. It is also in his statement that they all caused injuries on his back.

Keeping in view the evidence on record and statement given by the injured witness attributing the specific roles and even injuries attributed to Jasmer Singh, though general averments regarding injuries given by Mukhtiar Singh, I find that at the stage of summoning the additional accused under Section 319 Cr.P.C., it should appear to the Court from the evidence that the persons, who are sought to be summoned as additional

accused are involved in the commission of the offence and they should be tried along with accused already challaned.

From the record, I find that while passing the impugned order dated 29.03.2016, no illegality has been committed by learned Addl. Sessions Judge, Sirsa. It appears to the Court that present petitioners are involved in the commission of the offence and they should be summoned.

In view of the above discussion, I find that the impugned order dated 29.03.2016 passed by learned Addl. Sessions Judge, Sirsa, 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.

October 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No