

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

(114)

CRR-2009-2016

Decided on: May 27, 2016.

Seema Devi

.... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Aayush Gupta, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

Vide impugned order, an application filed by the petitioner under Section 319 Cr.P.C for summoning Pushpa wife of Rajender and Pooja daughter of Rajender who had allegedly entered the house of the petitioner being members of unlawful assembly and had killed the husband of the petitioner by assaulting him with 'kulhari' 'lathis' and 'danda'.

Learned counsel for the petitioner submits that the names of Pushpa and Pooja have been specifically mentioned in the FIR and the role has been attributed to them that they were present with 'danda' and had raised 'lalkara' besides causing injuries on the person of deceased.

With the assistance of learned counsel for the petitioner, I have gone through the nature of the allegations made by the petitioner in FIR and the statement of complainant as PW-8 made in the Court.

The trial Court has carefully appreciated the material available on the record to form an opinion regarding the participation of respondents No. 5 and 6 by applying the tests as held in **Hardeep Singh Vs. State of Punjab, 2014 (1) R.C.R. (Criminal) 623.**

I do not find any ground to interfere in the order of the trial Court passed after appreciating the statement of the petitioner and considering the other circumstances regarding the prima facie culpability of respondents No. 5 and 6 and applying parameters as held in Hardeep Singh' case (supra) and dismissing the application under Section 319 Cr.P.C. The revision petition is thus liable to be dismissed without prejudice to the other legal rights of the petitioner.

Learned counsel for the petitioner, at this stage, submits that one more material witness is yet to be examined and the testimony of the said witness may have bearing on the determination of the culpability of the accused who are sought to be added as additional accused. Seeking permission to file a fresh application under Section 319 Cr.P.C on the basis of changed circumstances, counsel for the petitioner prays for withdrawal of the present petition.

Disposed of as withdrawn with liberty to the petitioner to avail alternative remedy available to him at opportune time in accordance with law.

(M.M.S. BEDI)
JUDGE

May 27, 2016
harsha