

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

**CRR-3215-2014 (O&M)
Date of decision : 15.11.2016**

Tejinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gurbir Singh Pannu, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Balbir Singh, Advocate for respondent Nos.2 to 4.

JITENDRA CHAUHAN, J.

The instant revision petition is directed against order dated 22.08.2014, passed by learned Additional Sessions Judge, Ludhiana, whereby, the application moved by the prosecution for summoning respondent Nos.2 to 4, as additional accused, was dismissed.

It is contended that respondent Nos.2 to 4 have been specifically named in the statement of injured-Manjinder Singh, recorded under Section 161 of the Code of Criminal Procedure (for short, 'the Cr.P.C.') and specific role has been ascribed to each one of them. Learned counsel further refers to the statement of Manjinder Singh, injured, recorded while appearing as PW-1. He has specifically stated that respondent No.2, Harjinder Kaur, kept on inciting other co-accused to cause injuries to him.

He has also attributed specific role to respondent Nos.3 and 4. Thus, the presence and active participation of respondent Nos.2 to 4 in the occurrence is made out and they ought to be summoned under Section 319 Cr.P.C., to face trial as additional accused and the order assailed has been passed ignoring the above material aspect of the matter.

On the other hand, learned counsel for respondent Nos.2 to 4 states that the dispute is inter se the husband (Tejinder Singh) and his wife, Harjinder Kaur. After a detailed inquiry, the accused-respondents were kept in column No.2 as no incriminating evidence was found against them.

Heard.

The controversy regarding summoning under Section 319 Cr.P.C. has been settled by Hon'ble the Apex Court in '**(2014) 3 SCC 92, Hardeep Singh Vs. State of Punjab and others**'. Their Lordships have held as under:-

“Though under [Section 319\(4\)\(b\)](#) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under [Section 319](#) Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused

will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.”

In the instant case, it has come on record that the complainant Tejinder Kaur has specifically named Jagdev Singh, Pritpal Singh and Balbir Singh in the FIR. It is further stated that Jagdev Singh fired a shot from his pistol and Pritpal Singh gave a sword blow which hit on the head of the complainant. Jagdev Singh, Balbir Singh and one other person also caused injuries to the son of the complainant's sister. When examined as PW-1, Manjinder Singh, injured eye-witness has deposed that Harjinder Kaur, Jagdev Singh @ Jagga, Pritpal Singh, Balbir Singh, Lovedeep Singh, etc. were present on the spot. Harjinder Kaur raised lalkara whereupon, Lovedeep Singh brought gandasi from the electric motor and Balbir Singh gave kick blow and fist blows on his person, when he was lying on the ground. However, these facts do not find mention in the version recorded in the FIR at the behest of Tejinder Singh.

Thus, a perusal of the above, reveals that the names of Harjinder Kaur and Lovedeep Singh have been introduced subsequently, therefore, this Court is of the considered opinion that the instant application under Section 319 Cr.P.C. has been rightly rejected qua accused-respondent Nos.2 and 3. However, as far as respondent No.4, Balbir Singh, is concerned, his name appears in the FIR as well as in the statement of PW-1, Manjinder Singh and specific role has been ascribed to him. Thus, there is evidence more than prima facie evidence available on record against Balbir Singh, sufficient to summon him under Section 319 Cr.P.C. for face trial.

In view of the above discussion, the instant revision petition is dismissed qua respondent Nos.2 and 3, whereas, it is allowed qua respondent No.4, Balbir Singh.

15.11.2016

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Whether speaking/reasoned

Whether reportable

(JITENDRA CHAUHAN)

JUDGE

Yes/No

Yes/No