

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3322 of 2015 (O&M)
Date of Decision: January 27, 2016

Samay Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Krishan Singh, Advocate
for the petitioner.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
for the respondent-State.

Mr.Diwan S. Adlakha, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Samay Singh against respondents State of Haryana, Ramesh Kumar and Kala @ Fouji, challenging the impugned order dated 11.05.2015 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, vide which the application under Section 319 Cr.P.C. filed by complainant-petitioner to summon Ramesh Kumar and Kala alias Fauji, as additional accused 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 revision 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 the application under Section 319 Cr.P.C. was moved by the complainant through the Public Prosecutor. In the application, it is stated that when the complainant was going to his village Sultanpur, then in the way between Mustafabad and Sultanpur, some young persons obstructed him and caused injury to him by saying that they would show him power of Sarpanch Ramesh Kumar and his brother Kala. It is further alleged in the application that the said facts have also been categorically stated by the complainant in examination-in-chief in this Court but despite being having ample and cogent evidence against Ramesh Kumar and Kala alias Fauji, the police have not challaned them and did not put them on trial whereas they have got caused injuries on the person of complainant.

Learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, after giving reasonings, dismissed the application.

From the record, I find that in the FIR, there is only allegation that unknown boys who caused injuries, were saying that they will show him (complainant) the power of Sarpanch. The perusal of the FIR nowhere shows that those boys named Ramesh Kumar and there is no mention of Kala alias Fauji. Though in the FIR, the complainant shown his suspicion that those injuries have been caused to him at the instance of Sarpanch Ramesh Kumar and Kala alias Fauji but no motive has been mentioned in the FIR. While

appearing in the Court, the motive has been given by the complainant first time by making the improvement that he has not cast the vote in favour of Ramesh Kumar Sarpanch. The perusal of the chief-examination and the other record, nowhere shows that there was any motive for causing the occurrence or whether any altercation or anything ever taken place between the Sarpanch and present petitioner-complainant.

Admittedly, neither Ramesh Kumar nor Kala alias Fauji were present on the spot nor they caused any injury. The mere fact that those boys at the time of causing injuries have stated that they will show the strength of Sarpanch, in itself will not be sufficient, from where the Court can held that it appears to the Court that these persons Ramesh Kumar and Kala alias Fauji are involved in the commission of the offence. For summoning the additional accused, it should appear to the Court from the evidence that the person to be summoned, is involved in the commission of the offence and should be tried along with other accused already facing the trial.

The impugned order dated 11.05.2015 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri is correct and as per law. No illegality has been committed by the Court. Though the Court held in the order that there is not sufficient evidence on the record but at the same time, the Court has held that accused so summoned, in all likelihood would not be convicted. It is now settled law that it is not necessary for the Court to reach to the conclusion that evidence if un-rebutted will not lead to conviction. At this stage,

the Court is to see that evidence produced on the record, is somewhat more than prima facie case and less than that the accused can be convicted on this evidence. As already discussed, at this stage, under Section 319 Cr.P.C., it should appear to the Court that the persons, who are to be summoned, are involved in commission of offence and they should be tried along with other accused already facing the trial.

From the perusal of the record, I find that there is no sufficient evidence to summon Ramesh Kumar and Kala alias Fauji as additional accused nor it appears that they are involved in the commission of the offence.

In view of the above discussion, I find that the impugned order dated 11.05.2015 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, 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.

January 27, 2016
Vgulati

(INDERJIT SINGH)
JUDGE