

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3385 of 2015 (O&M)
Date of Decision: April 22, 2016

Tarun Sharma

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gitish Bhardwaj, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

None for respondents No.2, 3 and 6 to 9.

Mr.Pankaj Bali, Advocate
for respondent No.4.

Mr.Vikram Singh, Advocate
for respondent No.5.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Tarun Sharma against State of Haryana and other respondents, challenging the order dated 06.08.2015 passed by learned Addl. Sessions Judge, Karnal vide which the application under Section 319 Cr.P.C. filed by the complainant-petitioner was dismissed.

Notice of motion was issued and learned State counsel and learned counsel for respondents No.4 and 5 appeared and

contested the petition. However, none appeared on behalf of respondents No.2, 3 and 6 to 9.

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 complainant Tarun Sharma through learned Public Prosecutor filed application under Section 319 Cr.P.C. for summoning Vinod alias Palla, Rajesh alias Raja, Babli, Raju alias Raj Kumar, Vicky alias Bikram, Vikas, Sanjiv and Dharam Pal alias Jugnu as additional accused. It is stated in the application that complainant Tarun Sharma had named Vinod etc. as accomplices of accused Nikku and have given the detailed version regarding the role played by them in the commission of the crime and the same version has been deposed by the complainant Tarun Sharma while appearing as PW-2. His version is further corroborated by the statement of Dwaraka Parshad recorded under Section 161 Cr.P.C.

The brief facts of the case as noted down in the impugned order are as under:-

“Brief facts of the case of prosecution are that present case was launched on the statement of the complainant Tarun Sharma who reported that he had lodged FIR No.383 dated 19.5.2011 under Sections 148, 149, 341, 323,307 and 506 of IPC in which, his uncle Narinder Kumar was eye witness. The accused Nikku as well as others who were accused in the said case were compelling his uncle Narinder Kumar not to make any statement against them in the said case FIR No.383. However, Narinder Kumar had made statement against the accused persons in the court on 11.2.2014 and due to this fact the accused Nikku and co-accused were keeping grudge against the said Narinder Kumar on 20.9.2014 at 8.00 PM and when the complainant along with his uncle Narinder Kumar was returning from Karnal to their village Ranwar on motor cycle which was being driven by his

uncle Narinder Kumar and when they reached near a cardboard factory near Averdhan Canal a TATA Safari bearing registration No.HR05-Y-9200 came from the side of village Ranwar and struck against their motor cycle. The driver of the said TATA Safari had intention to kill them with said intention he had dragged the motor cycle for some distance. The complainant had fallen on the left side of the kacha portion of the road and had received minor injuries, but his uncle Narinder Kumar was dragged with the motor cycle. He further reported that thereafter he saw the accused Nikku and his co-accused Rajinder Singh and Vinod alighting from the said car who were armed with country made pistol. The other co-accused Rajesh @ Raja, Babli, Ranu, Vicky, Vikas had also alighted from the said car. Another car driven by Dharam Pal and two other boys had followed TATA Safari and all those persons got down from their car with dandas and bindas in their hand. The accused Nikku opened a fire on the complainant, but he somehow escaped. Thereafter, the accused Nikku shot a fire on Narinder Kumar deceased. All the accused had raised lalkara to finish Narinder Kumar deceased. The motor cycle had got fired and thereafter assailants had fled away from the spot. On this statement a formal FIR under Sections 307, 302 and 427 of IPC was registered. However, during investigation, accused Nikku only was challaned whereas the remaining persons named in the FIR were not challaned.”

Learned Addl. Sessions Judge, Karnal, discussed the evidence in minute detail and found that there is no such material which could even prima facie establish that above noted persons have committed any crime. The occurrence took place at 8.05 P.M. on 30.04.2009 and immediately thereafter, police had reached the spot but the complainant had stated that he does not want to make the statement in a hurry and he will consult his relatives and family and only thereafter he will make statement in the case. He made statement for lodging the FIR only on the next day at about 11.15 A.M. after the delay of 15 hours.

The Court also discussed that as per the FIR, the

complainant was the pillion rider on the motorcycle, which was struck against the TATA Safari and dragged for 100 meters but the complainant had not received any injury in the occurrence. The Court further discussed the fact that in the FIR there is mention that accused Nikku and some other persons had opened fire but neither any fire injury was received by the complainant and the deceased nor there was any sign of firing at the spot.

During investigation, it was found that no fire arm was used in the occurrence. The Court also held that the police after investigation, had found that the above-stated persons were not involved in the commission of crime. No recovery of any fire arm has been effected during the investigation. The Court further held that the complainant had stated that as he had fallen on kacha portion of the road and had received only minor injuries, so his MLR could not be conducted. It is also discussed in the evidence that police had found an empty cartridge of .315 bore at the spot.

The Court further held that in the whole FIR, it is nowhere mentioned that above-said persons have beaten the complainant and deceased with dandas and bindas.

Keeping in view the above discussion, I find that the impugned order passed by learned Addl. Sessions Judge, Karnal, is correct, as per evidence and law. For 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 offence but from the record and

evidence produced by the complainant, at this stage, it does not appear to the Court that the above-stated persons are involved in the commission of offence.

In view of the above discussion, I find that the impugned order dated 06.08.2015 passed by learned Addl. Sessions Judge, Karnal is correct, as per evidence and law and do not require any interference from this Court.

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

April 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE