

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3721 of 2015 (O&M)
Date of Decision: February 01, 2016

Narender and another

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravinder Rana, Advocate
for the petitioners.

Mr.P.K.Jhanda, Asstt. Advocate General, Haryana
for the respondent-State.

Mr.Varun Katyal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision petition has been filed by the petitioners Narender and Bholu @ Sandeep Kumar against State of Haryana and other respondents, challenging the impugned order dated 04.12.2014 passed by learned Addl. Sessions Judge, Jhajjar, vide which the petitioners were summoned as additional accused.

Notice of motion was issued and learned State counsel and learned counsel for respondent No.2 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 challan in the present case has been presented against accused Krishan s/o Mange Ram, Sunder s/o Krishan, Sunder s/o Phool Singh @ Fulchand and Malli @ Sanjeev. An application under Section 319 Cr.P.C. was filed before the trial Court i.e. learned Judicial Magistrate Ist Class, Jhajjar, who vide detailed order dated 27.03.2014, dismissed the application. Then a revision was filed by revisionist-complainant before learned Addl. Sessions Judge, Jhajjar, who vide impugned judgment dated 04.12.2014, set aside the order dated 27.03.2014 passed by learned JMIC, Jhajjar and the application under Section 319 Cr.P.C. for summoning Narender and Bholu @ Sandeep was allowed.

From the perusal of the record, I find that the impugned judgment passed by learned Addl. Sessions Judge, Jhajjar, setting aside the order dated 27.03.2014 passed by learned JMIC, Jhajjar is not as per law and evidence. As per the FIR, which was registered on the statement of injured-complainant Pushpa, Narender hit Pushpa on her forehead with the stick and Bholu carrying stick in his hand, hit on her shoulder 5-6 times repeatedly. There is also mention regarding injuries caused by other accused. When Pushpa appeared in the witness box in the Court, she has not stated anything regarding accused Narender that he was armed with stick and gave any injury to her. She also made material improvement in her statement by stating that Bholu @ Sandeep attacked on her forehead with the stick from backside.

Keeping in view the evidence on record i.e. statement of

PW-3 Pushpa, the copy of which has been placed on the record as Annexure P-2, no injury is attributed to Narender and the injury attributed to Bholu @ Sandeep, was earlier attributed to Narender in the FIR and regarding this injury, there is material improvement by the complainant PW-3 Pushpa.

In view of the facts and circumstances, in no way, it can be held that it appears to the Court that the persons, which the complainant wants to get summoned as additional accused, are involved in the commission of the offence. They have already been found innocent during investigation. Learned JMIC, Jhajjar, after passing well-reasoned order, has dismissed the application under Section 319 Cr.P.C. and there was no ground for the revisional Court to set aside the order of learned JMIC, Jhajjar.

In view of the above discussion, I find that the impugned judgment dated 04.12.2014 by learned Addl. Sessions Judge, Jhajjar, is illegal, not as per law and the same is set aside. The application under Section 319 Cr.P.C. for summoning the present petitioners as additional accused is dismissed.

Therefore, finding merit in the present revision petition, the same is allowed.

February 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE