

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

CRR No.4015 of 2014 (O&M)
Date of Decision: November 11, 2016

Wahid

...Petitioner

VERSUS

Khalil and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.N.S.Shekawat, Advocate
for the petitioner.

Mr.Karan Pathak, Advocate
for respondents No.1 to 12 and 15.

Mr.S.K.Bawa, Advocate
for respondents No.13 and 14.

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

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against Khalil and other respondents challenging the order dated 12.11.2014 passed by learned Addl. Sessions Judge, Nuh, whereby the application under Section 319 Cr.P.C. filed by the complainant-petitioner was dismissed.

Notice of motion was issued and learned counsel for private respondents as well as learned State counsel appeared and contested the 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 challan was presented against Rahish and other accused under Sections 148, 149, 323, 324, 302, 341 and 506 IPC. During the pendency of the trial, an application under Section 319 Cr.P.C. was filed by the complainant Wahib for summoning Khalil, Shokeen, Shodan, Akeel, Salauddin, Jamil, Majid, Ashu, Ruzdar, Alli, Rashid, Sakir, Hosiyar, Mubarik and Fajjar. It is stated in the application that from the evidence it appears that aforesaid persons have also committed the offence along with accused already facing the trial. It is also stated that they have also been named in the FIR and in the statement under Section 161 Cr.P.C. There are specific allegations against all the aforesaid persons and the same have been corroborated by the medical evidence and therefore, they be summoned as additional accused to face trial.

Learned Addl. Sessions Judge, Nuh, dismissed the application vide order dated 12.11.2014.

I have gone through the impugned order dated 12.11.2014. In the order, the Court held that name of Shokeen has not been mentioned by PW-1. Secondly, the Court below has taken notice of the fact that five of the additional accused namely Dr.Khalil Ahmed, Constable Mohd. Shokin, Akil Ahmd, Jamil Ahmed and Sakir Hussain are government employees, therefore, it is highly probable that complainant wants to array them as accused to put maximum pressure upon the accused party and further, that these persons have been found innocent by the police during investigation.

It is settled law that the trial Court while deciding the application under Section 319 Cr.P.C., is to discuss the evidence for the

purpose whether it appears to the Court that the persons sought to be summoned as additional accused are involved in the commission of offence and should be tried with the accused already challaned or not.

The perusal of the impugned order dated 12.11.2014 nowhere show that the Court below has applied its mind or has given reasoning after appreciating the evidence before it. The Court below has nowhere discussed the evidence of PW-1 nor the Court discussed the injuries, whether the injuries as stated by PW-1 and as stated in the FIR, are corroborated by medical evidence or not. No reasoning has been given on the basis of the evidence. As the impugned order is not discussing the evidence on record, therefore, it will amount to non-speaking order. From the impugned order, nothing is clear as to what PWs have deposed and what roles have been attributed to the accused persons. What injuries are attributed to them or whether the injuries are corroborated by the medical evidence or what injuries have been suffered by the deceased and injured persons.

In view of the above discussion, I find that impugned order dated 12.11.2014 passed by learned Addl. Sessions Judge, Nuh, is a non-speaking order. Therefore, the same is set aside. The matter is remanded back to the trial court to decide the application under Section 319 Cr.P.C. by passing well reasoned order after discussing the statement of PW-1 etc.

The present revision petition stands allowed accordingly.

November 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No