

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

**CRR-3220-2016 (O&M)
Date of decision : 08.09.2016**

Javed @ Yunus and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D.S. Matya, Advocate for the petitioners.

JITENDRA CHAUHAN, J.

The instant revision petition is directed against order dated 21.07.2016, passed by learned Additional Sessions Judge-I, Mewat, whereby, the petitioners have been summoned under Section 319 of the Code of Criminal Procedure, as additional accused to face trial.

It is contended that a civil litigation is already pending between the parties. The instant proceedings are only a tool to harass the petitioners. There is no MLR of the complainant on record. After a detailed investigation conducted by the investigating agency, the petitioners were kept in column No.2 as no incriminating evidence was found against them. Now, learned trial Court, vide the impugned order has summoned the petitioners to face trial without there being any fresh evidence on record against them.

Heard.

In view of the law laid down by Hon'ble the Supreme Court in ***Dharam Pal Vs. State of Haryana, 2013(3) Recent Criminal Reports 787***, prima facie satisfaction of the Court is sufficient to summon an accused to face trial. In ***Hardeep Singh Vs. State of Punjab, 2014(3) SCC 92***, Hon'ble the Supreme Court has held as under:-

“99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words “for which such person could be tried together with the accused.” The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.”

In the instant case, from the perusal of the case file, it is evident that the petitioners have been specifically named in the FIR. There is no delay in lodging the FIR as well. The complainant, while appearing as PW-6, has also reiterated his version in the statement recorded in in the FIR. Prima facie, the version propounded by the complainant appears to be as per the record.

Therefore, this Court does not find any illegality or perversity in the impugned order passed by learned summoning Court which may warrant interference by this Court.

Dismissed in limine.

However, nothing noticed hereinabove shall be construed as an expression of opinion of this Court, on the merits of the case.

08.09.2016

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Whether speaking/reasoned

Whether reportable

(JITENDRA CHAUHAN)

JUDGE

Yes/No

Yes/No