

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

CRR No.3522 of 2016.
Decided on:-27.09.2016.

Wajir Singh @ Kala.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner-complainant has filed the present revision petition against order dated 6.8.2016 passed by learned Additional Sessions Judge, Ferozepur whereby application under Section 319 Cr.P.C. filed by Additional Public Prosecutor for summoning respondent No.2 Harpreet Singh alias Golu as an additional accused, was dismissed.

Learned counsel for the petitioner-complainant has contended that while deposing in the case, the complainant has specifically named respondent No.2-Harpreet Singh alias Golu and specific role has been attributed to him as he has actually participated in the crime. His name is duly figured in the FIR, but the police has wrongly placed him in column No.2 of the Challan. There is prima-facie evidence to summon him as an accused.

Learned counsel for the petitioner has further argued that at the

time of summoning of additional accused under Section 319 Cr.P.C., only prima-facie case is to be seen against the person and his conviction is not to be seen. He has further stated that the petitioner-complainant while appearing in the witness box as PW2 has categorically deposed that on enquiry, he came to know that respondent No.2-Harpreet Singh had engaged Gurmeet Singh to eliminate the petitioner.

Learned counsel for the petitioner has referred to the confession dated 3.8.2015 (Annexure P-2) made by co-accused Gurmeet Singh @ Billa. He has further stated that in order to cause harm to the petitioner, the respondent No.2, who is residing in Canada, had given Rs.26,000/- to accused Gurmeet Singh and Kaka Singh and, therefore, in view of the confession made by accused Gurmeet Singh, respondent No.2 is required to be summoned to face trial as an additional accused.

I have heard learned counsel for the petitioner.

Initially, the FIR in question was registered against unknown persons on 4.6.2015 and then, after about 2 months, it was on the supplementary statement made by the petitioner-complainant on 6.8.2015, three persons were named as accused. In the said supplementary statement, the petitioner-complainant had stated that after 2 months of the registration of the case, he has come to know that 3 years earlier, he had a dispute with respondent No.2 which was compromised through Panchayat. The respondent No.2 along with his family has gone to Canada. Therefore, due to enmity, respondent No.2 through accused Gurmeet Singh alias Billa and

Dharminder Singh alias Kaka had got fired at him with an intention to kill him.

On the basis of supplementary statement made by the petitioner, an enquiry was conducted by Deputy Superintendent of Police, Zira wherein it was concluded that the petitioner and respondent No.2 had a dispute about 3 years ago, which was a small dispute and ended in a compromise. Thereafter, the respondent No.2 had gone to Canada. He has not returned to India since then.

When respondent No.2 has gone to Canada 2 years earlier than the occurrence and since then he is residing there, the plea of the petitioner that accused Gurmeet Singh has made a confessional statement regarding involvement of respondent No.2 in the alleged crime, cannot be accepted. There is no incriminating material available on record to summon the respondent No.2 on the basis of application under Section 319 Cr.PC. The petitioner-complainant has sought summoning of respondent No.2 to face trial on the basis of mere suspicion due to alleged old enmity. Mere suspicion is no ground to summon an accused more particularly when the police has found him innocent.

In view of the above, this Court does not find any illegality in the impugned order dated 6.8.2016 passed by learned Additional Sessions Judge, Ferozepur and the same is affirmed and the present revision petition is, accordingly, dismissed.

However, it is made clear that the observations made

hereinabove shall not construe any expression on the merits of the case and are confined only to decide the present controversy at this stage. The trial Court shall decide the case on the basis of evidence available on record.

September 27, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No