

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

CRR No.3630 of 2016 (O&M).

Date of Decision: 09.11.2016.

Kulbir Singh and another

....Petitioners.

VERSUS

State of Punjab and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mrs. Rupinder K. Thind, Advocate for the petitioners.

SNEH PRASHAR, J.

CRM-31418-2016

This is an application filed under Section 5 of the Limitation Act seeking delay of 231 days in filing the petition.

For the reasons mentioned in the application, delay of 231 days in filing the petition is condoned.

Application stands disposed of accordingly.

CRR-3630-2016

This revision petition is directed against the order dated 02.12.2015 passed by learned Judicial Magistrate Ist Class, Kapurthala, partly allowing the application filed by the prosecution-complainant under Section 319 of the Code of Criminal Procedure (for short, "Cr.P.C."), for summoning the petitioners and one Rani as additional accused in case relating to First Information Report No.34 dated 21.04.2013 under Sections 323, 324, 447, 148 and 149 of the Indian Penal Code (for short, "IPC")

Learned counsel for the petitioners submits that on the basis of statement of complainant Mehnga Singh recorded before the trial Court, the prosecution filed an application under Section 319 Cr.P.C. for summoning the petitioners and few more persons as additional accused. Analyzing the same set of evidence while it was observed by learned trial Court that no case for summoning Bhajno, Kishna Ram, Bachan Singh and Balbir Singh as additional accused was made out, it was held that there is sufficient ground to proceed against Kulbir Singh and Goldy (petitioners) and one Rani daughter of Ranjit Singh and accordingly the application was partly allowed. Learned counsel contends that the testimony of complainant Mehnga Singh qua the petitioners was in variation to his own statement which formed the basis of First Information Report and was also not corroborated by medical evidence. As such, learned trial Court erred in summoning the petitioners as additional accused.

The argument of learned counsel for the petitioners appears to be devoid of merit. Petitioners Kulbir Singh and his son Harpreet Singh @ Goldi were not only specifically named as assailants by the complainant in his initial statement made before the police which culminated into the First Information Report, but also during his deposition before the Court he reiterated that the petitioners were armed with *Dandas* and they both had given *Danda* blows to him on his shoulder and legs. As per the medico legal report of complainant Mehnga Singh, he had suffered four injuries on his hands, thigh and right leg. Besides the complainant, there were two other injured also namely Balbir Kaur and Barkat Singh. The complainant attributed specific role and injuries to the petitioners during the occurrence.

the blows given by the petitioners had hit, that would be a matter worth consideration taking into account all other aspects of the case at the time of decision of the case on merits.

Passing the impugned order, learned Magistrate had categorically observed that the complainant was silent with regard to the role attributed to Kishna Ram, Bachan Singh and Balbir Singh and there was nothing appealing on record to justify summoning of Bhajno. For that reason the prayer for summoning of the said persons as additional accused was declined. On the other hand, on the basis of the material available on record directly indicating the petitioners, it was rightly held that there was sufficient ground to proceed against them.

There being no illegality or perversity in the order of learned trial Court and the petition being devoid of merit, is hereby dismissed.

(SNEH PRASHAR)
JUDGE

09.11.2016

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Whether speaking/ reasoned : Yes

Whether Reportable : No