

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

CRR 3736 of 2016

Date of Decision: October 17, 2016

Virender @ Sonu

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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**Present:- Mr. Deepak Vashishth, Advocate
for the petitioner.**

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M.M.S. BEDI, J. (ORAL)

Petitioner claims that he is Virender @ Sonu. He is facing trial along with the others for having committed the murder of Sunil, a taxi Driver.

After examination of 25/26 witnesses, the petitioner filed an application for summoning Ashok as additional accused, mainly on the basis of the telephonic conversation between the mobile phones of one Sonu and Ashok. He claims that there had been conversation with another person Manish. The application filed by the petitioner –accused for summoning Ashok as additional accused on the basis of the telephone conversation record was considered and dismissed by the trial Court.

Counsel for the petitioner has vehemently urged that as a matter of fact, Sonu son of Ved Pal and Ashok son of Partap Singh deserves to be summoned as additional accused to face trial by exercise of powers under Section 319 Cr.P.C. by the trial Court.

With the assistance of counsel for the petitioner I have gone through the documents placed on the record. Referring to the call details chart which is part of the lower Court record as Ex.P-23 and Ex.P-24, it was contended by counsel for the petitioner that the first call was made from mobile No. 9992636046 to mobile No. 9871601919 at about 4.46 p.m. whereas no call was made on March 1, 2016 from above said mobile to Mobile of Sonu having No. 9992636046.

After hearing counsel for the petitioner and going through the record it appears that summoning of additional accused Sonu and Ashok has been prayed for by none else but an accused on the basis of the suspicious circumstance of telephonic conversation between two mobile numbers as mentioned hereinabove. The order dismissing the application under Section 319 Cr.P.C. does not suffer from any illegality for the following reasons:-

- i) the application for summoning additional accused under Section 319 Cr.P.C. has been filed by an accused that too after the conclusion of the entire evidence with more than 25 prosecution witnesses having been examined;
- ii) The observations made in the judgment of **Micheal Machado Vs. CBI and another**, 2000 (2) RCR (Crl.) 75, will come into operation while

adjudication to his application under Section 319 Cr.P.C;

- iii) The endeavour of the petitioner is to seek a clean chit on the ground that it was another Sonu who was in contact with the deceased and the other accused.

Merely on the basis of the telephone record which has been referred to by the counsel for the petitioner, there does not appear to be prima facie case indicating that the evidence is sufficient enough to warrant conviction order or that the circumstances of the present case prima facie are indicative of the culpability of the other accused sought to be arraigned under Section 319 Cr.P.C. No ground is made out to interfere in the order.

Dismissed without prejudice to the rights of the complainant or the petitioner to seek legal remedy against the persons who are sought to be summoned in the exercise of powers under Section 319 Cr.P.C. by the Court.

October 17, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.