

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

CRR No. 4923 of 2015 (O&M)

Date of decision: 12.08.2016

Baldev Singh & Another

...Petitioners

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present : Mr. J. S. Gill, Advocate
for the applicants-petitioners.

Ms. Rimplejeet Kaur, AAG, Punjab.

Mr. Kamal Narula, Advocate
for the complainant.

A.B. CHAUDHARI, J. (Oral)

CRM-23835-2016

Application is allowed. Annexures P-9 to P-12 are taken on record.

Main Case

Petition is taken up for final hearing.

Heard learned counsel for the rival parties.

Petitioners have filed this petition for setting aside the impugned order dated 07.12.2015 passed by the trial Court, whereby petitioners have been summoned as additional accused, under Section 319 Cr.P.C., to face trial.

Perused the evidence of PW-1 Budh Singh that was recorded before the trial Court. On the basis of the evidence of PW-1, the trial Court exercised the power under Section 319 Cr.P.C. for

summoning petitioners Baldev Singh and Ramesh Singh.

Learned counsel for the petitioners submits that the names of the petitioners are not found in the FIR, DDR and statement under Section 161 Cr.P.C. and, therefore, no summon under Section 319 Cr.P.C. could be issued to the petitioners.

I do not agree. I have perused the deposition of PW-1 Budh Singh on the basis of which, the trial Court issued summons in exercise of the power under Section 319 Cr.P.C. Only evidence before the trial Court from Budh Singh is that in connivance with two other persons, namely Baldev Singh and Ramesh Singh (*petitioners herein*), Sona Singh @ Sonu was murdered.

This is the only evidence before the trial Court and admittedly there is no other evidence in support of the impugned order. In the wake of the decision of the Constitution Bench of the Hon'ble Supreme Court held in *Hardeep Singh vs. State of Punjab & Ors., 2014(1) RCR (Crl.) 623*, I am of the firm opinion that the impugned order dated 07.12.2015 passed by Additional Sessions Judge, Fazilka is clearly faulty and the same is set aside as such.

Petition stands allowed.

(A.B. CHAUDHARI)
JUDGE

August 12, 2016
Ansari

Whether speaking/reasoned

Yes

Whether Reportable

No