

CRR-434-2016
CRR-1068-2016
CRR-906-2016

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

Sr. No.228

CRR-434-2016
Decided on 01.09.2016

Bhupinder Singh @ Jyoti Tiwana
Vs.
The State of Punjab

CRR-1068-2016

Gurwinder Singh
Vs.
State of Punjab

CRR-906-2016

Mandeep Kaur
Vs.
State of Punjab and others

CORAM:HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. C.S.Bakshi, Advocate
for the petitioner.(CRR-434-2016 and CRR-1068-2016)
for respondent No.3(CRR-906-2016)

Mr. Rahul Ram Pal, Advocate
for the petitioner.(CRR-906-2016)
for the complainant.(CRR-1068-2016 and CRR-434-2016)

Mr. K.S.Panu, DAG, Punjab.

Mr. Sant Pal Singh Sidhu, Advocate
for respondent No.2.(CRR-906-2016)

AJAY TEWARI, J. (ORAL)

These are three petitions. Criminal Revision petition bearing No. CRR-434 of 2016 has been filed by Bhupinder Singh @ Jyoti Tiwana and Criminal Revision petition bearing No. CRR-1068-2016 has been filed by Gurwinder Singh against the order dated 15.01.2016 summoning them under Section 319 Cr.P.C. as additional co-accused. Criminal Revision petition bearing No. CRR-906-2016 has been filed by the complainant Mandeep Kaur challenging the order dated 15.01.2016 declining to summon Uminder Kaur and Raj Bhupinder Singh as additional co-accused under Section 319 Cr.P.C. For the sake of convenience the facts are being taken from CRR No. 434 of 2016.

As regards Bhupinder Singh @ Jyoti Tiwana, learned counsel for the petitioner has argued that the main reason why the story of the complainant was incredible is that the petitioner is admitted to be the resident of same village as the complainant and both knew each other very well and in these circumstances, reference to him as 'unknown person' at two or three places in the FIR is highly unbelievable.

As regards Gurwinder Singh, learned counsel for the petitioners has argued that the petitioner was out of station between 16.01.2015 to

18.01.2015.

Learned counsel for the complainant has argued that at the time when the FIR was lodged the complainant was very disturbed and therefore her omission to name Bhupinder Singh cannot be given undue importance. As regards Gurwinder Singh, he has argued that firstly the people set up by him is not that cast-iron which could have been believed wholesale by the police and secondly even as per that alibi he is out of station from 16.01.2015 to 18.01.2015 and the occurrence is of 18.01.2015 at 2 p.m.

In my opinion, the argument of learned counsel for the petitioner (in case of Bhupinder Singh) carries weight while the argument of learned counsel for the complainant (with regard to Gurwinder Singh) are more substantial. It cannot be lost sight of that FIR was lodged after about 6 hours of the actual incidence and once complainant had sufficient control of her mind to have named other three persons, there is no occasion to have omitted the name of Bhupinder Singh who was a resident of the same village. Her subsequent explanation after 6 days while naming him also does not inspire much confidence. As regards Gurwinder Singh, it cannot be denied that alibi with regard to the fact that he was

visiting some friends is not that kind of cast iron which can be believed because obviously his friends would support him. Moreover, even as per that alibi he was out of station up till 18.01.2015 and the incident is also of 18.1.2015.

Coming to the third revision filed by the complainant, learned counsel for the complainant has argued that once the complainant has named Raj Bhupinder Singh and Uminder Kaur as having been present at the spot, there was no reason for the Court not to have summoned them.

Learned counsel for these two respondents have argued that in the first version there were three people in the vehicle and thereafter there was no reason to give credence to the statement made by the complainant after six days which was totally different from the original statement.

At the time when the complainant made initial statement to the police about more than five hours of the incident her husband was in the hospital and was under no imminent danger of death(even though he had been declared unfit to make statement). In those circumstances, it is difficult to believe that she would not have remembered that two other persons were also present at the spot.

In view of the entire conspectus facts discussed above and the

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judgement of the Supreme Court in "*Hardeep Singh Vs. State of Punjab and others 2014 (3) SCC 92*", Criminal Revision bearing No. 434 of 2016 is allowed and the impugned order dated 15.01.2016 is set aside while Criminal Revisions bearing Nos. 1068 and 906 of 2016 are dismissed.

September 01, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No