

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

**CRM No.M-10458 of 2017 (O&M)
Date of Decision: December 15, 2017**

Satyavir Singh @ Satbir Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navmohit Singh, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.N.S.Shekhawat, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Abhay Singh for quashing the impugned order dated 08.08.2016 passed by learned Addl. Chief Judicial Magistrate, Narnaul, vide which application under Section 319 Cr.P.C. filed by the petitioner was dismissed and also for quashing the judgment dated 09.02.2017 passed by learned Addl. Sessions Judge, Narnaul, vide which the revision petition filed by the petitioner was also dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that challan was presented against accused Satender and Arun in case FIR No.257 dated 12.10.2012 under Sections 323, 325, 341, 506 and 34 IPC. During the pendency of the trial, an application under Section 319 Cr.P.C. was filed, in which it is stated that eye witness to the incident PW-5 Rajender was examined by the prosecution and he specifically stated in his testimony that Abhay Singh along with accused gave injury with iron rod to Satyavir and specific injury has been attributed to him. It is also argued before lower Court that the police has wrongfully left the above-said accused, whereas, there are specific allegations against him by the eye witness and complainant.

Learned ACJM, Narnaul, vide impugned order dated 08.08.2016, dismissed the application by stating that present application has been filed by the prosecution when all the witnesses have been examined.

Learned counsel for respondent No.2 also argued that this application is not maintainable at that time as material witnesses have already been examined before the Court.

It has been brought to the notice of this Court that injured Satyavir has been examined as PW-7 and other witnesses have been examined earlier. After the examination of the injured, this application has been filed and in no way, it can be held that it was filed at a belated stage. The perusal of the record shows that PW-5 Rajender and PW-7 Satyavir have specifically stated that Abhay Singh was armed with iron rod and he gave injury on the right leg of Satyavir, which falls under Section 325 IPC.

In the FIR also, specific attribution is there to Abhay Singh, to whom the prosecution wants to summon as additional accused. Learned counsel for

the petitioner contended that MLR and X-ray report are already on the record which show that there is fracture of Tibia and Fibula on the right leg.

From the record, I find that in view of the statements of PW-5 and PW-7 and also as per the averments of the FIR, Abhay Singh was armed with iron rod and he gave injury on the right leg of Satyavir injured. The injury has been corroborated by the medical evidence. Keeping in view all these facts, it appears to this Court that respondent No.2 is involved in the commission of the offence and he should be tried along with the accused already facing the trial.

In view of the above discussion, I find that the order and judgment passed by both the Courts below are not as per evidence and law and the same are set aside. Finding merit in the present petition, the same is accpeted. The application under Section 319 Cr.P.C. filed by the petitioner stands allowed.

However, nothing stated above, will constitute my opinion on merits of the case.

December 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No