

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

CRM No.M-23023 of 2016 (O&M)

Date of Decision:- March 20, 2017

Dhanpati and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Dhiman, Advocate
for the petitioners.

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

Mr.M.S.Kathuria, Advocate
for respondent No.2

INDERJIT SINGH, J.

The petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Ankit for quashing of impugned summoning order dated 18.03.2016 passed by learned Judicial Magistrate Ist Class, Gurgaon, vide which the petitioners have been ordered to be summoned to face trial under Sections 323, 325 and 506 IPC read with Section 34 IPC and judgment dated 10.05.2016 passed by learned Addl. Sessions Judge, Gurgaon, vide which the revision petition filed by the petitioner has been 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 Sultan and Joginder in case FIR No.141 dated 03.07.2012 under Sections 323, 325, 506 and 34 IPC. During the trial, an application was filed by the complainant-respondent No.2 for summoning additional accused Dhanpati wife of Sultan and Manju Devi wife of Joginder Singh. Learned JMIC, Gurgaon, vide impugned order dated 18.03.2016, summoned Dhanpati and Manju Devi to face trial under Sections 323, 325, 506 and 34 IPC. Learned trial Court discussed the statements recorded under Section 161 Cr.P.C. and also statement of PW-1. A revision was filed by the petitioners and learned Addl. Sessions Judge, Gurgaon, dismissed the same vide impugned judgment dated 10.05.2016.

Aggrieved from the above said order and judgment, present petition has been filed.

The perusal of the record, especially the FIR, shows that Dhanpati and Manju Devi were armed with danda and they gave danda blows on the waist of complainant Ankit. It is also in the FIR that Dhanpati and Mandu Devi also gave danda blows on the waist of Devender.

From the record, firstly I find that the occurrence took place on 19.06.2012 at about 8.00 P.M. and the FIR in this case has been registered on 03.07.2012, after a long delay. Therefore, there is every possibility that version may have been concocted to implicate other family members in this case. The challan has been presented against Sultan and Joginder and additional accused Dhanpati and Manju Devi are their wives respectively.

The perusal of the MLR, which is placed on the record, shows

that no such injury is found on the person of Ankit or Devender, which are stated to have been given by these ladies. The oral statements of PWs are not supported by medical evidence. Otherwise also, the injuries suffered by Ankit i.e. one lacerated wound on the parieto temporal region and other abrasion and one injury suffered by Devender on the left fore arm, are not corroborated by the oral statements and the prosecution version qua the role attributed to these additional accused.

Therefore, from the record, it does not appear to the Court that the petitioners are also involved in the commission of the offence. The standard of proof for summoning the additional accused is somewhat more than prima facie case. The additional accused cannot be summoned in a mechanical way only on the basis of statement of one PW.

In view of the above discussion, I find that the impugned order dated 18.03.2016 passed by learned JMIC, Gurgaon, summoning the petitioners as additional accused and the impugned judgment dated 10.05.2016 dismissing the revision petition filed by the petitioners, are not as per evidence and law and the same are set aside. The application under Section 319 Cr.P.C. filed by the complainant-respondent No.2 is dismissed.

Therefore, finding merit in the present petition, the same is allowed.

March 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No