

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-31539-2017

Date of decision: 28.08.2017

Ram Niwas

..... Petitioner

Versus

Dina Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. SK Tripathi, Advocate for the petitioner

RAMENDRA JAIN, J. (ORAL)

1. Through this petition under Section 482 Cr.P.C., the petitioner has sought quashing of orders dated 28.10.2015 of the trial Court and dated 01.04.2017 that of Revisional Court, Gurgaon (Annexures P-2 and P-4, respectively), dismissing the application of the petitioner-complainant filed under Section 319 Cr.P.C.

2. In nutshell, four persons as accused were named in the FIR by the petitioner. During trial, after four years through application Annexure P-1 under Section 319 Cr.P.C., the petitioner sought summoning of seven more persons as an additional accused, on the basis of statements of PW-5 Ram Niwas (petitioner-complainant) and PW-6 Nirmala. The said application was dismissed by the trial Court vide impugned order dated 28.10.2015 (Annexure P-2).

3. Being dissatisfied, the petitioner had preferred a revision petition against the said order Annexure P-2. The learned Revisional Court also dismissed the same vide order dated 01.04.2017 (Annexure P-4). For

ready reference, the operative part of the order Annexure P-4 is reproduced

as under:-

“7. It is also well settled that at the time of summoning the accused, only material which is to be examined is that there must be some sufficient material to proceed against the accused for offence allegedly committed by him and summoning order on application under section 319 of the Code of Criminal Procedure, 1973 cannot be passed in a mechanical manner. It is also well settled that power under section 319 of the Code of Criminal Procedure, 1973 must be exercised sparingly. There must be some convincing and reliable evidence to summon the other persons as co-accused. Mere sufficient evidence as required for framing charge is not sufficient. In the present case, the names of proposed accused are not mentioned in the First Information Report. It is also not disputed during the course of arguments that both the parties are related to each other. Under these circumstances at the time of getting the case registered, there was no hindrance for not mentioning the names of persons sought to be summoned as additional accused, in the First Information Report. Admittedly, a cross case is also pending relating to the same occurrence. It appears that the complainant is trying to involve maximum members of the accused party in the present case which cannot be permitted under law. The learned trial Court has rightly observed that the statements of PW 5 Ram Niwas and PW6 Nirmala is result of improvement and in order to implicate the relatives of the accused persons particularly when no injury has been attributed to the proposed accused. It is also not disputed that the criminal complaint filed by the revisionist-complainant against the proposed accused has also been dismissed upto the court of learned Additional Sessions Judge, Gurgaon. There is nothing on the file to show that some more cogent evidence has been brought on the record which was not available at the time when main accused facing trial were charge-sheeted.

8. For the reasons recorded above, there is no merit in the

revision which stands dismissed. A copy of Judgment along with record be sent to the Court of learned trial Magistrate where parties shall appear on 11.04.2014. Revision file be consigned to records after due compliance.”

4. Learned counsel for the petitioner has not been able to point out any infirmity, perversity or illegality in the impugned orders of both the Courts below. Accordingly, the instant petition is dismissed with costs of ₹ 5000/- to be recovered from the petitioner by the trial Court and the same shall be deposited with the Haryana State Legal Services Authority, Panchkula.

5. A copy of this order be sent to the Member Secretary, Haryana State Legal Services Authority, Panchkula, for necessary action.

August 28, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No