

128

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

**CRM-M-41809-2016 (O&M)
Date of Decision: 27.04.2017**

ASHOK KUMAR

.....Petitioner

Vs

BALMIT SINGH AND ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Mohit Jaggi, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner remained unsuccessful before both the Courts below in getting Lachhman summoned as additional accused with the aid of Section 319 Cr.P.C.

[2]. FIR was registered with the allegations that Balmit gave grievous injuries to Shiv Bahadur at the back of his head. In the statement before the Police, specific allegations were made against Balmit and Lachhman. Said Lachhman has not been challaned by the Police and his name was placed in column No.2 in the report under Section 173 Cr.P.C.

[3]. Statement of HC Madan Lal was recorded wherein he stated that the persons who had caused injuries to Shiv

Bahadur were present at Sabji Mandi, Ragho Majra. The Head Constable along with the complainant Ashok Kumar reached at the spot and apprehended both the accused persons. On being asked, one of them disclosed his name as Balmit and second disclosed his name as Laxmi.

[4]. As per statement of the complainant Ashok Kumar, Balmit pushed aside his uncle and started abusing him. On being objected, Balmit caught hold of his uncle by collar and gave a brick bat blow on the back side of his head. Shiv Bahadur fell down and in the meantime, Laxmi father of the accused Balmit came there and gave kick blows in the abdomen of Shiv Bahadur.

[5]. Statement of Shiv Bahadur was also recorded, wherein he stated that Balmit after giving him fist blows, picked up iron weight and hit him on the back side of his head as a result of which he fell down. In the meantime, Lachhman came there and started beating him with fist and leg blows. Balmit was using abusive language also.

[6]. During the course of investigation and as per medical evidence on record Lachhman was found to be innocent and his name was placed in column No.2 in the report under Section 173 Cr.P.C. As per material on record, specific injury allegedly attributed to Lachhman has not come forth, even in the

statement of injured Shiv Bahadur. The requirement under Section 319 Cr.P.C. is in the context of proving more than *prima facie* case for framing charge and the evidence should be such that, if the same goes unrebutted, the same would lead to conviction of the accused.

[7]. From the material on record, I do not subscribe any such view to say that the evidence is sufficient to form an opinion that, if the same is not rebutted that would lead to reasonable prospects of conviction of Lachhman.

[8]. In view of above, no such indulgence can be granted in summoning Lachhman with the aid of Section 319 Cr.P.C.

[9]. Petition is accordingly dismissed.

April 27, 2017

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No