

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

**CRR No.3227 of 2015 (O&M)
Date of Decision: August 23, 2017**

Anil

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pawan Kumar, Senior Advocate with
Mr.Rozar Kumar Aggarwal, Advocate
for the petitioner.

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

Mr.J.S.Bedi, Senior Advocate with
Mr.Sunil Sihag, Advocate
for respondents No.2 to 4.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Anil against State of Haryana and other respondents, challenging the impugned order dated 16.07.2015 passed by learned Addl. Sessions Judge, Palwal, vide which the application filed by the complainant-petitioner under Section 319 Cr.P.C. was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.2 to 4 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 during the trial in case FIR No.674 dated 20.12.2014, an application under Section 319 Cr.P.C. was filed by the complainant Anil through his counsel for summoning Shish Pal, Rambir, Nek Pal and Yashvir as additional accused. Learned Addl. Sessions Judge, Palwal, vide impugned order dated 16.07.2015, only summoned Shish Pal as additional accused to face trial along with co-accused under Sections, 302 read with Section 34 IPC. The application qua other persons was dismissed. Aggrieved from the above-said order, qua dismissal of the application against Rambir, Nek Pal and Yashvir, present revision petition has been filed.

From the record, first of all, I find that during investigation, these accused persons were found innocent and challan was only presented against Gaurav, Devender and Kuldeep. As the allegation against Shish Pal was that he fired from the pistol and caused injuries to the deceased, therefore, he was summoned by the trial Court in this case. As per allegations, Rambir asked co-accused to kill Sahil and he gave kick blows on the mouth of Sahil. The Court below after perusing the evidence held that no corresponding injury on the mouth of Sahil has been found as per the post mortem examination. The allegations against Nek Pal are that he gave iron rod blow on the head of Sahil but no such injury was found in the post mortem examination. It is also the allegation that Rambir and other three persons gave kicks and punches to PW-2 Anil and Sunil but both these have not been medico legally examined. Therefore, there are no corresponding injuries as stated against these persons.

Learned Addl. Sessions Judge, Palwal, held that there is no

Sunil. It is further that allegations against Rambir, Nek Pal and Yashvir have not been corroborated by any medical evidence.

Learned counsel for the petitioner argued that in the inquest report, the Investigating Officer has stated that there was blood on the head of the deceased. On this argument, I find that there might be blood on the head of Sahil but neither the Investigating Office had found the injuries on the head by stating whether it is an incised wound or lacerated wound or place of the injury nor there is anything in the post mortem examination regarding the injury on the head. The doctor, during post mortem examination of the deceased, had not found injury on the head. Therefore, no reliance can be placed regarding the opinion of the Investigating Officer qua the blood on the head.

The perusal of the record shows that even the FIR was not recorded immediately. Rather, as per the Investigating Officer, in this case, it is written in the FIR that application was given after some period for registration of the FIR and there is delay in recording the FIR also.

Keeping in view all these facts, I find that the impugned order dated 16.07.2015 passed by learned Addl. Sessions Judge, Palwal, cannot be held as perverse or against the evidence. No illegality has been committed by learned trial Court while dismissing the application under Section 319 Cr.P.C. qua Rambir, Nek Pal and Yashvir.

Therefore, finding no merit in the present revision petition, the same is dismissed.

August 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No