

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

**CRR No.2739 of 2016 (O&M)
Date of decision: 03.08.2017.**

Pardeep Verma

...Petitioner

Versus

State of Haryana and others

...Respondents.

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Salil Bali, Advocate
for respondent No.6.

.....

ARVIND SINGH SANGWAN, J. (ORAL)

The instant revision has been filed against the impugned order dated 13.07.2016 vide which the application filed by the complainant under Section 319 Cr.P.C. summoning Shyam Sunder, Urmila, Sat Narain, Roshni, Manoj, Prem Lata and Kavita as additional accused was dismissed in case FIR 315, dated 01.10.2012, under Sections 148 and 452, 323, 324, 326, 506, 307 IPC read with Section 149 IPC.

While issuing notice of motion on 05.08.2016, this Court has noticed that notice qua respondent No.6 only be issued.

Learned counsel for the petitioner has argued that a perusal of the FIR shows that the injured – Pardeep Verma, has stated that Azad and Manoj S/o Satyanarain started beating him with 'Salaigar' and iron rod respectively. Manoj S/o Satyanarain gave an iron rod blow on the head of his son- Vivek and Azad gave 'Salaigar' blow on hand and feet. Learned

counsel for the petitioner further submitted that the injured -Vivek was medico legally examined by Dr. Vikas Singh on 30.09.2012 and following injuries were found on his head:

- “(i) One lacerated wound size 4.5 x 0.5 cm, 1 cm deep over ® occipito-parietal scalp, 1 cm away from midline. Adv. Neurosurgeon opinion. Kuo. Blunt, within 6 hrs.
- (ii) One swelling of size approx. 4 x 4 cm over occipital scalp in midline, Adv. Neurosurgeon opinion.”

Learned counsel for the petitioner further submitted that while submitting the report under Section 173 Cr.P.C., Manoj and four other co-accused were kept in column No.2, without giving any cogent reason by the police. Learned counsel for the petitioner has further referred to the statement of PW-1-Pardeep Verma (Annexure P-8), wherein he again reiterated the version given in the FIR, by deposing that Manoj s/o Satyanarain, who is brother of Harish gave a blow with iron rod on the back side of his shoulder and Manoj gave iron rod blow on the head of his son -Vivek. Thus, counsel for the petitioner submits that it was the consistent case of the complainant that Manoj has caused injuries on the head of his son-Vivek. It is further submitted by the counsel for the petitioner that while passing the impugned order, the trial Court has though noticed the statement of PW-1, but has not at all considered the MLR, the contents of the FIR and the statement recorded by the police as Ex. P-1 and rather discussed the family dispute between the parties which was not required at this stage for deciding an application filed under Section 319 Cr.P.C. The defences taken by the accused person with regard to their family dispute can only be considered at the time of deciding the main trial and not for the purpose of

deciding the application under Section 319 Cr.P.C. It is further submitted that in fact in the order passed by the trial Court, there is not even passing reference with regard to the injuries attributed to Manoj and the statement made by him in Court giving details of injuries caused to Vivek and thus, the impugned order is a non-speaking order qua the role attributed to Manoj.

On the other hand, learned counsel for respondent No.6 submits that Manoj was found innocent that is why he was kept in Column No.2 of the challan, after completion of the investigation. It is also submitted on behalf of respondents that it is well settled principal of law that application under Section 319 Cr.P.C. should be allowed only when there is some convincing evidence has come on record.

After hearing learned counsel for the parties, the impugned order dated 13.07.2016 is set aside qua Manoj considering that no finding has been recorded by the trial Court as to why the application under Section 319 Cr.P.C. is dismissed against him. The matter is remanded back to the trial Court for deciding the application under Section 319 Cr.P.C. afresh only qua accused Manoj, after considering the evidence available on record. The parties are directed to appear before the trial Court on 21.08.2017, on the date already fixed and the trial Court will decide the application, forth with before proceeding further and recording evidence of the prosecution.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

03.8.2017
hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No