

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3039-2016 (O&M)

Date of decision: March 07, 2017.

Roshni

... **Petitioner**

v.

State of Haryana and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Krishan Kumar Chahal, Advocate for the petitioner.
Shri D.S. Salwara, Deputy Advocate General, Haryana.
Shri Ashwani Bhardwaj, Advocate for
respondents No.5, 7, 9 & 10.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the consent of learned counsel for the rival parties.

What is under challenge in the present petition is the order dated 20.7.2016 made by the trial court by which it rejected the application filed by the petitioner for exercising the power under Section 319 Cr.P.C. to summon as many as additional 14 accused in the trial.

The counsel for the parties were heard at length. I have seen the reasons given by the trial in the impugned order. The trial court was impressed with the fact that all the 14 accused were found innocent by the police. The police, according to the trial court, had made inquiries in the village and the villagers had told them that they were not available in the village at the relevant time and therefore they were innocent. It is on the basis of such statement of the villagers that they were declared innocent.

Section 319 Cr.P.C. provides that during the trial, the court has to look into the evidence brought before it for arriving at a definite conclusion for

exercising the power under Section 319 Cr.P.C. and the likelihood of conviction as per the Constitution Bench in the case of Harpreet Singh. I have perused the evidence of the petitioner/injured complainant PW1 Roshni. She has named 24 persons who had allegedly come to her house. It is on the basis of this statement, the counsel for the petitioner had filed an application for summoning 24 persons in all. As a matter of fact, if her evidence is carefully seen, the following persons have been attributed a specific role in her evidence. I quote, the following para from her evidence:-

“Rajesh gave lathis blows to Santro on her body. Balbir and Sukhbir gave lathi blows to Kuldeep then Pardeep was felled and number of blows were given to him with lathis and dandas. When I tried to intervene Ompati and Suman caught hold of me and Manjit gave pipe blow in my head, Vikash gave gandas blow in my head. ...”

Out of the above, Rajesh and Balbir are already facing trial but Sukhbir, Ompati, Suman, Manjit and Vikas though have been attributed specific role neither they have been charge-sheeted nor the trial court proposes to summon them under Section 319 Cr.P.C. In my opinion, the evidence against the above persons, namely, Sukhbir, Ompati, Suman, Manjit and Vikas is enough to exercise power under Section 319 Cr.P.C. In so far as the others are concerned, the application filed by the petitioner for summoning them is frivolous and with a view to involve them in a false litigation and the trial court has rightly rejected the application under Section 319 Cr.P.C. qua other persons named above. In that view of the matter, following order is inevitable:-

ORDER

(i)CRR-3039-2016 is partly allowed;

- (ii) impugned order is set aside and quashed;
- (iii) application filed by the petitioner under Section 319 Cr.P.C. is partly allowed;
- (iv) the trial court shall now summon Sukhbir, Ompati, Suman, Manjit and Vikas as additional accused in the trial and shall be put on trial.

March 07, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No