

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3948 of 2016

.....

Date of decision:13.1.2017

Jai Parkash

...Petitioner

v.

State of Punjab

...Respondent

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

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Present: Mr. Ravi K. Mattoo, Advocate for the petitioner.

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**Inderjit Singh, J.**

Jai Parkash-petitioner has filed this criminal revision petition against State of Punjab (respondent) under Section 401 Cr.P.C. challenging the impugned order dated 1.10.2016 passed by learned Additional Sessions Judge, Patiala, vide which the application filed under Section 319 Cr.P.C. has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that challan has been presented in FIR No.79 dated 1.5.2015 registered for the offences under Sections 120-B and 302 IPC at Police Station Patran. During the trial, an application under Section 319 Cr.P.C. was filed for summoning Balwant Ram, Roshan Ram and Darshana Bai as additional accused.

The present case was registered on the statement of complainant-Jai Parkash on 1.5.2015 and as per complainant, his son Pawan Kumar aged 24 years had been visiting the house of Balwant Ram. He developed friendly relations with Pinki wife of Balwant Ram. Due to this, Balwant Ram husband of Pinki, his brother-in-law Kalu and Janga were keeping a grudge against him. On the day of incident at about 12.00 p.m. Pawan Kumar had left the house, but he did not return till 1.30 p.m. The complainant and his wife Gurnamo Bai went to the house of Balwant Ram to search him. It would be about 2.00 p.m. that in the room situated at the house of Balwant Ram, Kalu and Janga were removing 'chunni' from the neck of Pawan Kumar. Pinki Bai, Banti Bai wife of Roshan Ram and Darshana wife of Kabir Chand were standing nearby. Roshan Ram was standing in front of the door of the room. As soon as they reached, then Janga, who was carrying 'chunni' in his hand, pushed the complainant and he and Kalu fled away from the spot along with the 'chunni'. They saw their son Pawan Kumar, who had already died. There was bluish mark on his neck. On their raising alarm, people started gathering there. Pinki Bai, Banti Bai, Darshana Bai and Roshan Ram also fled away from the spot by taking the advantage of the gathering. There is no supplementary statement of the complainant on the record.

A perusal of the FIR itself shows that Balwant Ram was not present on the spot. Roshan Ram was standing outside the room and no role is attributed to him. Darshana was also stated to be standing there. The Police after investigation found Balwant Ram, Roshan Ram and Darshana

as innocent. The complainant Jai Parkash while appearing in the Court has made material improvements regarding the presence of Balwant Ram, his participation and also made improvement regarding Roshan Ram. He attributed that Roshan Ram was catching the left leg of the deceased.

The Court after discussing the material improvements by PW-Jai Parkash did not find any merit in the application and the same was dismissed.

A perusal of the impugned order dated 1.10.2016 passed by learned Additional Sessions Judge, Patiala, shows that no illegality has been committed by the Court and the application has been dismissed as per law. In the FIR, which is the first version, there is nothing that Balwant Ram was present in the house. But while appearing as a witness in the Court, the complainant stated that Balwant Ram was present at the spot and he was pressing the chest of complainant's son with his right hand. Balwant Ram had closed the eyes of his son with his hand. Similarly, in the FIR, it had been stated that Roshan Ram was standing in front of the door, however, while appearing in the Court, the complainant stated that Roshan Ram had caught left leg of his son and no role had been attributed to Darshana Bai. At this stage, it does not appear to the Court that the persons to whom complainant wants to summon are also involved in the commission of offence. It is settled law that standard of proof for summoning additional accused is somewhat more than *prima facie* case.

Therefore, from the above, I find that the impugned order passed by the learned Additional Sessions Judge, Patiala, is correct as per

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evidence and law and does not require any interference from this Court.

Keeping in view the above discussion, I find that no illegality has been committed by the learned Additional Sessions Judge while dismissing the application filed for summoning the above persons as additional accused.

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

January 13, 2017.

**(Inderjit Singh)**  
**Judge**

\*hsp\*

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| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |