

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

**Date of decision: December 05, 2017
CRR No.3978 of 2016 (O&M)**

Tanvir Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CRR No.1431 of 2017 (O&M)

Jaspreet Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

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

Present: Mr. Ankur Mittal, Advocate for the petitioner(s).

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

Mr. Akashdeep Singh, Advocate for respondent No.2.

A.B. CHAUDHARI, J

Both these petitions are being disposed of by the present common order.

In both these revision petitions, petitioners, namely Tanvir Singh and Jaspreet Singh have put to challenge the order dated 27.09.2016 passed by the learned Additional Sessions Judge, Ludhiana by which these two petitioners were, in exercise of power under Section 319 of Code of Criminal Procedure, 1973, called upon to face the trial as additional accused along with original accused persons.

Heard learned counsel for the rival parties at length.

Learned counsel for the petitioners in both these revision petitions submitted that the trial Court could not have summoned the present petitioners, namely Tanvir Singh and Jaspreet Singh as the evidence before the Court did not specifically show any allegation against them about any particular role played by them. According to them, except vaguely stating that Tanvir Singh had connived at for killing and that he had conspired and further that Jaspreet Singh was armed with *kirpan*, there is absolutely no other evidence on record to show that any specific role was attributed to them. On the contrary, role was attributed to the other persons and not these two petitioners.

Per contra, learned counsel for respondent No.2 vehemently opposed both these revision petitions and submitted that the trial Court has found, in the impugned order, that Tanvir Singh had conspired and Jaspreet Singh was armed with *kirpan* and both of them were present during the attack and therefore, the trial Court was right in calling them as additional accused persons. He, therefore, prayed for dismissal of both these revision petitions.

I have gone through the impugned order passed by the learned trial Court carefully. I have also gone through the evidence of witness Rajwinder Singh on whose evidence, the impugned order has been passed by the trial Court. Perusal of the evidence as well as reasons in the impugned order show that only allegation against Tanvir Singh is that he had conspired/connived at with the other accused persons to kill. There is no allegation of any weapon with him. In so

far as Jaspreet Singh is concerned, the allegation is that he was armed with *kirpan*. It is seen from the evidence that number of persons were armed with *kirpan* and carrying *kirpan* is not unusual thing. At any rate, there is no allegation about use of *kirpan* by Jaspreet Singh. There are allegations against other accused persons which is stated by me earlier and that there are no specific attributions to both these petitioners. The *ratio decidendi* in the case of **Hardeep Singh versus State of Punjab and others**, 2014(1) R.C.R. (Criminal) 623 laid down by the Apex Court in the constitution Bench judgment, if applied, shows that there is hardly any chance of *prima-facie* case for their conviction. In the result, I think both these petitions must be allowed.

Hence, CRR No.3978 of 2016 and CRR No.1431 of 2017 are allowed. Impugned order dated 27.09.2016, in so far as the present petitioners, namely Tanvir Singh and Jaspreet Singh, is concerned, is quashed and set aside.

(A.B. CHAUDHARI)
JUDGE

December 05, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No