

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

CRR No.4500 of 2016 (O&M)
Date of Decision: May 24, 2017

Kuldip Singh alias Kuljit Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Pratham Sethi, Advocate
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Karan Vir Nanda, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kuldip Singh alias Kuljit Singh against respondents State of Punjab and Amarpreet Singh, challenging the impugned order dated 24.10.2016 passed by learned Sessions Judge, Gurdaspur, vide which the application under Section 319 Cr.P.C. filed by the prosecution was allowed and petitioner was summoned as additional accused to face trial.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 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 Dharamjot Singh was challaned by the police and the name of present petitioner Kuldeep Singh alias Kuljit Singh was kept in column No.2 as he was found innocent during investigation. During pendency of the trial, an application under Section 319 Cr.P.C. has been filed for summoning present petitioner as additional accused to face trial along with other co-accused under Sections 302, 307 IPC and Section 25 of the Arms Act. As per prosecution case, Kuldeep Singh has equally contributed towards the commission of offence and fully assisted and shared the common intention in killing deceased Mandeep Singh and causing dangerous to life injuries to Sarabjit Singh. It is also the case of the prosecution that complainant Amarpreet Singh as well as injured Sarabjit Singh, in their statements recorded by the police and in the Court as PW-1 and PW-2 respectively, have specifically mentioned the name of Kuldeep Singh and have levelled specific allegations against him about the commission of crime.

Learned Sessions Judge, Gurdaspur, after discussing the evidence, accepted the application and summoned Kuldeep Singh alias Kuljit Singh as additional accused to face trial.

Learned counsel for the petitioner mainly relied upon the enquiry report given by DSP vide which the present petitioner was found innocent. He further argued that only *lalkara* has been attributed. He next argued that owner of the chicken corner, during the enquiry has stated that present petitioner has already left the spot when altercation took place

between the complainant party and Dharamjot Singh.

From the record, I find that present petitioner is specifically named in the FIR. It is stated that Dharamjot Singh and Kuldip Singh came there in white coloured Logan car, which was driven by Dharamjot Singh, who tried to hit the car against the complainant party and when complainant asked as to why he tried to hit them, then an altercation took place, upon which Kuldip Singh alias Kuljit Singh raised *lalkara* that complainant should be taught a lesson for confronting them, upon which Dharamjot Singh took out his .32 bore revolver and fired first shot on Mandeep Singh, cousin of the complainant and same hit on his chest. Dharamjot then repeatedly fired two shots on Sarabjit Singh @ Sonu, cousin of the complainant, out of which one shot hit on the wrist of his right arm and second was hit on his left shoulder. He fired another shot in the air and thereafter, both the accused fled away from the spot along with their respective weapons in their car. Mandeep Singh died on the spot due to the bullet injuries on his chest.

The perusal of the record shows that PWs have also deposed the same facts while appearing before the Court as PW-1 Amarpreet Singh and PW-2 Sarabjit Singh, whose statements are also placed on record. There is direct evidence of these two PWs attributing active role to the present petitioner Kuldip Singh alias Kuljit Singh. At this stage, for summoning additional accused, the standard of proof is somewhat more than *prima facie* case and less than, if remained unrebutted would lead to conviction. PW-1 and PW-2 have deposed against the present petitioner and their statements are as per the FIR. At this stage, the Court is not to see whether *lalkara* was given to kill or to teach a lesson. All these facts are to

The mere fact that petitioner was found innocent during investigation, is no ground to accept the revision petition. The application under Section 319 Cr.P.C. is only filed when some of the persons are not challaned by the police and there being evidence against them before the trial Court. Therefore, the argument of learned counsel for the petitioner that the petitioner was found innocent, has no merit. At this stage, the Court is to see whether from the evidence it appears to the Court that person sought to be summoned is involved in the commission of the offence and he should be tried along with other accused or not. From the record, it appears that present petitioner is involved in the commission of the offence. The fact that owner of chicken corner gave statement during investigation that present petitioner left after altercation, is also no ground for dismissal of application under Section 319 Cr.P.C. Owner of chicken corner is not shown as prosecution witness in the final report under Section 173 Cr.P.C., as argued.

In view of the above discussion, I find that no illegality has been committed by learned Sessions Judge, Gurdaspur, while summoning the petitioner as additional accused vide impugned order dated 24.10.2016.

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

May 24, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No