

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

CRR No.4586 of 2016 (O&M)
Date of Decision: October 24, 2017

Chandan Arora

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rishu Mahajan, Advocate
for the petitioner.

Ms.Simranjeet Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Jasjit Singh Bedi, Senior Advocate with
Mr.Rohit Sud, Advocate
for respondents No.2, 3 and 5 to 7.

Respondent No.4 died.

Mr.Puneet Sharma, Advocate
for respondent No.8.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Chandan Arora against State of Punjab and other respondents, challenging the impugned order dated 03.10.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which the application filed by the petitioner under Section 319 Cr.P.C. for summoning additional accused was dismissed.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondents No.2, 3, 5 to 7 and 8 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 challan was presented in this case against Jagdeep Singh and Mandeep Singh in FIR No.120 dated 01.08.2014 under Sections 279, 304 and 304-A IPC by the police of Police Station Division No.2, Jalandhar . During the pendency of the trial, an application under Section 319 Cr.P.C. for summoning M.D.Bowry, G.S.Mangat, Smt.Kamlesh Bowry, Dhiraj Bhanoti, Chander Bowry, Smt.Shally Bowry and Ramesh Sood as additional accused was filed.

The brief averments of the application as noted down in the impugned order dated 03.10.2016 passed by learned Addl. Sessions Judge, Jalandhar, are as under:-

“2. In brief, assertions of the application are that the police has presented challan against accused Jagdeep Singh-driver and accused Mandeep Singh - conductor of School Bus bearing Registration No. PB- 08AE-9153 for the offence punishable under Section 304-II of Indian Penal Code for causing death of Arush Arora, who died while traveling in the said bus on 01.08.2014. Jaswinder Singh, Clerk of the office of District Transport Officer, Jalandhar, who came into witness box as PW-7 has stated that the aforesaid bus is owned by Innocent Heart Senior Secondary School, Green Model Town, Jalandhar and the above said school is owned, run and managed by Bowry Memorial Educational and Medical Trust, 72-Shaheed Udham Singh Nagar, Jalandhar (herein-after referred to as Trust). Shri M.D. Bowry was President, Shri G.S. Mangat son of Shri Ram Singh was Vice President, Smt. Kamlesh Bowry wife of Shri M.D. Bowry was secretary of the said trust, Shri Dhiraj Bhanoti was Principal of Innocent Heart Senior Secondary School, Shri Chander Bowry, Smt. Shally Bowry and Shri Ramesh Sood were trustees of said trust at the time of incident on 01.08.2014 and all these persons were having control over the bus. They were directly responsible for the day to day functioning of the school as well as its bus. Transportation charges of the aforesaid bus in which deceased child was traveling was also charged by the said trust. According to the statement of HC Tarlochan Singh

PW, speed governance equipment although fitted in the bus was not in functional condition as the same was not attached with the engine through wire and was simply fitted in the body of the bus. No safety devices were found fitted in the aforesaid bus as per statement of PW HC Mukhtiar Singh and there was only a 'L' shaped grill fitted in front of the seat as per statement of plaintiff Chandan Arora. There was no inter mediating grill between the seat and the bar, leaving sufficient space for child to fall. Aforesaid facts clearly shows that it is a case of gross violation of rules and regulation, recklessness and lack of due indigence on the behest of above named persons, who allowed bus to be plied without adopting proper security and safety norms as it was incumbent upon them to take and provide all safety measures according to rules while permitting to ply school vehicle on public road which was being used for carrying school children. Therefore, above named persons are required to be summoned as accused to face trial along with accused already arrayed, in the interests of equity, justice and fair play. Hence, this application.”

The perusal of the impugned order shows that it has been passed by learned trial court as per evidence and law. No illegality has been committed by the Court below while passing the impugned order dated 03.10.2016. In no way, the findings can be held as perverse or against the evidence and law. The copy of statement of the complainant Chandan Arora has been placed on record as Annexure P-15. The perusal of the statement shows that complainant has not even mentioned the names of private respondents. He has not stated that these respondents are Principal or Member of the Managing Committee. He has also not stated even a single word that they are negligent in supervising the school or have not appointed driver or conductor after due care and caution. Nothing has been mentioned that they have violated any rules or conditions framed for the safety of the children. Nothing has been mentioned against private respondents sought to be summoned as additional accused. In the statement, the only averment is that said bus had been provided by the

school authorities of Innocent Heart School and he (complainant) used to pay the school bus fee regularly. On the basis of this statement, I find that no evidence has been produced before the Court. Mere averment of the complainant regarding involvement of these private respondents in the crime or showing their negligence etc., in the application is not sufficient.

In view of the above discussion, I find that the impugned order dated 03.10.2016 passed by learned Addl. Sessions Judge, Jalandhar, is correct, as per evidence and law and does not require any interference from this Court.

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

October 24, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No