

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

**CRR No.1430 of 2017 (O&M)
Date of Decision: April 25, 2017**

Bhalle Ram

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pankaj Singh, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 401 Cr.P.C. against State of Haryana and other respondents, challenging the impugned order dated 16.01.2017 passed by learned Sessions Judge, Sonipat, vide which the application filed by the complainant-petitioner under Section 319 Cr.P.C. was dismissed.

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

From the record, I find that challan against Dilbagh @ Baga, Manoj, Rohtas and Karambir was presented in case FIR No.303 of 2014 under Sections 302/34 IPC. During the trial, complainant Bhalle Ram filed application under Section 319 Cr.P.C. for summoning Dharambir, Sandeep, Sanjeet and Jagbir as additional accused. Learned Sessions Judge, Sonipat,

vide impugned order dated 16.01.2017, dismissed the application.

The perusal of the impugned order shows that earlier, after the statement of complainant Bhalle Ram as PW-3, an application under Section 319 Cr.P.C. was moved by stating that during the course of investigation, above-named four persons were illegally and arbitrarily dropped by the police and there was sufficient evidence on record to take cognizance against the above-named persons. The said application was dismissed by the Court on 24.09.2015. It is further stated that the Court proceeded with the trial and after examining upto PW-18, the prosecution closed the evidence and again application under Section 319 Cr.P.C. was filed.

The perusal of the impugned order shows that this order is correct, as per evidence and law. For summoning additional accused, it should appear to the Court that persons sought to be summoned as additional accused are involved in the commission of the offence. There is no cogent evidence in the present case to show that the above-named persons are also involved in the commission of the offence except the oral statements of Bhalle Ram complainant and his daughter that all these persons came in the tractor trolley when they were sitting in front of their house and one of the accused Dilbagh Singh stated that they have killed the son of the complainant. It is not the case of direct evidence which means that no witness has seen the occurrence. It is the case of circumstantial evidence. For circumstantial evidence, there should be evidence on record to show the involvement of the additional accused.

As per the impugned order dated 16.01.2017, in the order dated 24.09.2015, when the first application under Section 319 Cr.P.C. was dismissed, the trial Court held that on the basis of deposition of PW-3

investigation twice, cannot be belied and wiped away and on the statement of PW-2 Bhalle Ram, no case is made out for exercising the jurisdiction under Section 319 Cr.P.C.

Therefore, from the evidence on record, it does not appear to the Court that above-named persons are also involved in the commission of the offence and they should be summoned as additional accused.

In view of the above discussion, I find that the impugned order dated 16.01.2017 passed by learned Sessions Judge, Sonipat, 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.

April 25, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No