

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

**CRR No.148 of 2017 (O&M)
Date of Decision: May 09, 2017**

Balwan Singh

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Abhishek Sindhwani, Advocate
for the petitioner.

Mr.Kuldeep Sharma, Deputy Advocate General, Haryana
for the respondent-State.

Mr.R.N.Lohan, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Balwan Singh against respondents State of Haryana and Rahul, challenging the impugned judgment dated 04.11.2016 passed by Addl. Sessions Judge, Jind, vide which the revision filed by respondent Rahul against the order dated 03.12.2015 passed by learned Judicial Magistrate Ist Class, Jind, summoning Rahul as additional accused under Section 319 Cr.P.C., was allowed.

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 challan was presented against

Balajit Singh, Raj Bala, Dharambir and Kulbir in case FIR No.825 dated 20.12.2011 under Sections 294, 323, 427, 506 and 34 IPC.

During the pendency of the trial, an application under Section 319 Cr.P.C. was filed on the ground that statement of PW-1 Balwan Singh complainant has been recorded in the Court and he has stated specifically that Rahul was also involved in the commission of the crime in question. Learned JMIC, Jind, allowed the application by stating that it is pertinent to mention here that even if no MLR of the offence committed has been put up with the file, it is sufficient that allegations are being imposed against any person with respect to commission of the offence coupled with testimony of complainant in the Court. Moreover, complaint also contains specific allegations against Rahul, as corroborated by the evidence led by PW-1.

A revision petition was filed by additional accused Rahul before the Court of Session and learned Addl. Sessions Judge, Jind, after giving notice to the complainant-respondent etc. allowed the revision and the application under Section 319 Cr.P.C. filed by the complainant was dismissed vide impugned judgment dated 04.11.2016.

Aggrieved from the above-said judgment, present revision petition has been filed by the petitioner-complainant.

From the record, I find that in the FIR, no specific allegations have been levelled against respondent-Rahul. His name has been mentioned in the headnote of the complaint and FIR has been registered under Section 156(3) Cr.P.C. In the body of the complaint, general allegations have been levelled against all the accused. Present respondent No.2 Rahul, during investigation, has been found innocent and now again, there is only oral statement of the complainant. No specific role has been attributed to Rahul,

to whom the complainant wants to summon as additional accused.

From the record, it does not appear to the Court that Rahul is also involved in the commission of the offence and furthermore, especially when he has been found innocent during the investigation of the case. No MLR has been produced on the record showing the injury on the person of the complainant.

As regarding the findings given by learned Addl. Sessions Judge, Jind to the extent that evidence of the complainant at this stage is not of such nature to inspire confidence of this Court that if it remained un rebutted would result in the conviction of revisionist, I find that now it is settled law that for summoning additional accused, it should appear to the Court as to whether the person sought to be summoned as additional accused is involved in the commission of the offence or not. The standard of proof is somewhat more than prima facie case. Except these observations of learned Addl. Sessions Judge, Jind, which are not as per law, the judgment dismissing the application under Section 319 Cr.P.C. is correct and as per law. Furthermore, it has been brought to the notice of this Court that trial qua other accused has already been decided. As the application under Section 319 Cr.P.C. has been dismissed by learned Addl. Sessions Judge, Jind and now the trial has been decided, therefore, this revision petition has also become infructuous.

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

May 09, 2017

Vgulati

Whether speaking/reasoned

Whether reportable

(INDERJIT SINGH)

JUDGE

Yes

No