

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1605 of 2017

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Date of decision:11.12.2017

Sharad Yadav

...Petitioner

v.

State of Haryana and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Manish Soni, Advocate for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr. Gautam Dutt, Advocate for respondents No.2 to 5.

Mr. Nitin Jain, Advocate for respondent No.6.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 20.2.2017 passed by learned Additional Sessions Judge, Gurgaon (now Gurugram), vide which the application filed under Section 319 Cr.P.C. filed by the prosecution for summoning the private respondents has been dismissed.

Notice of motion was issued in this case.

Mr. B.S. Virk, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State, Mr. Gautam Dutt, learned Advocate has appeared for respondents No.2 to 5 and Mr. Nitin Jain,

learned Advocate has appeared for respondent No.6 and contested this criminal revision petition.

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

From the record, I find that during the trial of the case in FIR No.514 dated 13.10.2013, an application was filed under Section 319 Cr.P.C. by complainant-Sharad Yadav through his counsel Shri Prashant Yadav, Advocate forwarded by learned PP for the State for summoning additional accused, namely, Ashok, Titu, Vicky, Yogi and Ramesh. It has been stated in the application that the Investigating Officer did not proceed against the assailants. It has been pleaded that on 2.6.2015, complainant-Sharad Yadav deposed in his examination-in-chief that proposed accused, namely, Ashok, Titu, Vicky, Yogi and Ramesh along with accused facing trial inflicted serious injuries to him with danda, iron rod and saria and the complainant is an eye witness. PW-3 Dr. Kamaldeep was also examined, who proved that the complainant faced lacerated wounds, multiple injuries, fractures, contusions, internal injuries etc. corroborating the version of the complainant PW-6 Sharad Yadav. The learned Additional Sessions Judge, Gurgaon, vide the impugned order dated 20.2.2017 dismissed the application finding no merit. It has been held by the learned Additional Sessions Judge that the statement of the complainant has not been substantiated by any specific allegation either of beating to him by all of the proposed accused with the help of accused facing trial or any injury has been attributed to the present accused. There is specific allegation by the

complainant that accused Raj Kumar, Sunil Sethi, Kapil and Ajay got stopped his vehicle by their Scorpio vehicle and the allegations of assault are against accused Raj Kumar, Sunil, Kapil and Ajay, who are facing trial. It has been alleged by the complainant that accused Sunil and Kapil collected iron rods, Ajay collected lathi and they started hitting him. Sunil took a country made pistol from Titu and fired at him, but it did not hurt him. Raj Kumar then fired at him from his licensed pistol and he managed to escape. So the specific allegations regarding assault are against accused Raj Kumar, Sunil Sethi, Kapil and Ajay. In cross-examination also, he disclosed that before MLR, he had also gone to Sarvodya Hospital, Gurgaon i.e. private hospital and the treatment was given to him by Sarvodya Hospital for the injuries suffered by him, but no such material has been produced on record. The Court below also held that there is no material to say regarding fracture on the person of the complainant. During investigation, the Police also could not find any material against the said proposed accused. The Court below held that in the examination-in-chief, the complainant had improved his version regarding the fact that the additional accused have also given beating to him. PW-6 stated that they gave beating to him with the weapons carried by them and then he became unconscious, but the Doctor says that the present petitioner never remained unconscious. The Court below also perused the MLR and found that there was no fracture and various injuries were of pain and swelling only. Injuries No.5 and 8 were CLW 0.5 cm. X 0.5 cm. and injury No.10 was contusion 10 cm. X 2 cm. The Court below further held that there is no record showing

any fracture.

For summoning additional accused as per settled law the requirement is of somewhat more than prima facie case and it should appear to the Court that from the evidence on record, the additional accused, which the prosecution wants to summon, are also involved in the commission of the offence and they should be tried along with the accused already challaned by the Police.

From the perusal of the record, I find that it does not appear to the Court that the private respondents are also involved in the commission of the offence keeping in view the injuries on the person of the complainant and there being no specific role/injury attributed to the additional accused to whom the prosecution wants to summon. The learned Additional Sessions Judge, Gurgaon, while dismissing the application has not committed any illegality. The order is as per evidence and law which does not require any interference from this Court.

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

December 11, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No