

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

**CRR No.2649 of 2017 (O&M)
Date of Decision: October 30, 2017**

Savita

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.N.S.Shekhawat, Advocate
for the petitioner.

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

Mr.Gaurav Mohunta, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

The present revision petition has been filed by petitioner against State of Haryana and other respondents, challenging the impugned order dated 04.07.2017 vide which the application filed by the complainant-petitioner under Section 319 Cr.P.C. was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.2 and 3 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 in this case challan was presented

against Anil @ Bholu in case FIR No.102 dated 08.03.2016 under Section 302 IPC and Section 25 of the Arms Act. During the pendency of the trial, an application under Section 319 Cr.P.C. was filed by the complainant-petitioner for summoning Krishan and Sunil as additional accused. It is stated in the application that evidence of the complainant Savita has been recorded and she has specifically deposed that Sunil caught hold right hand of deceased and Krishan caught hold left hand of the deceased and accused Anil fired a shot on the stomach of Satpal (now deceased). It is further stated that Krishan and Sunil were named in the FIR. They were arrested and their police remand was sought and their disclosure statements were also recorded but the police filed discharged report qua Sunil and Krishan and they were released from custody. It is prayed in the application that Krishan and Sunil be summoned to face trial.

Learned Addl. Sessions Judge, Sonapat, after hearing the parties and after going through the record, dismissed the application vide impugned order dated 04.07.2017.

From the record, first of all, I find that on the basis of the FIR, where the similar allegations are levelled by the complainant against Krishan and Sunil and the police, after investigating the case, found them innocent. No new evidence has come on the record. Only, there is statement of the complainant Savita. Secondly, no active role qua Sunil and Krishan regarding causing any injury or that they were armed with weapons has been said in the evidence. The only allegation qua them is that they caught hold both the hands of the deceased. There is only one fire arm injury given by accused Anil @ Bholu, who has already been challaned.

was got registered on the next day after about delay of 22 hours.

Further, learned counsel for private respondents brought to the notice of this Court the statement of Savita given before the Court. In cross-examination, she stated that accused Anil was the only person who was doing property business with her husband. Sunil and Krishan were not the partners in the property business of her husband. Sunil and Krishan were having no concern with her husband regarding property business. It is also in the cross-examination that blood oozed from the body of her husband, which fell on the ground and also on his clothes. Accused Anil fled away from the spot when she cried.

Learned counsel for private respondents also brought to the notice of this Court report under Section 173 Cr.P.C., where, it is stated that during investigation, on 08.03.2016, from the perusal of investigation and MLR No.88 of the deceased Satpal, it was found that at the time when the deceased Satpal was admitted in R.R. Army Hospital in injured condition, then Satpal had told the treating doctor that he has been shot by Anil and this fact has also been recorded by the doctor in the MLR. The Investigating Officer has also perused the call details report of the mobile phone of Sunil and Krishan and found that Krishan was present in his village at the time of occurrence and villagers have given their affidavits, in this regard.

The perusal of this report under Section 173 Cr.P.C. shows that reasonings have been given in the report for showing Krishan and Sunil as innocent by the Investigating Officer.

Keeping in view the evidence on record, I find that it does not

appear to the Court that Krishan and Sunil are also involved in the

commission of the offence. The standard of proof for summoning additional accused is some what more than prima facie case.

In view of the above discussion, I find that the impugned order dated 04.07.2017 passed by learned Addl. Sessions Judge, Sonapat, 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 30, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No