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

**CRR-349-2017 (O&M)
Date of Decision: 28.08.2017**

Baldev Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. A.S. Barnala, Advocate,
for the petitioners.

Mr. V.G. Jauhar, Senior DAG, Punjab.

SUDIP AHLUWALIA J. (ORAL)

This petition is directed against the impugned order dated 21.01.2017 passed by the Ld. Additional Chief Judicial Magistrate, Barnala in the criminal proceedings arising out of FIR No.39, dated 20.07.2012 registered at Police Station Bhadaur, District Barnala.

[2]. Vide the impugned order, the Ld. ACJM had allowed an application filed on behalf of the prosecution under Section 319 of the Cr.P.C. praying for arraigning three additional accused persons, namely, Baldev Singh, Randhir Singh and Bija Singh to face trial on the basis of the statement given against them by complainant Pargat Singh.

[3]. Background of the matter is that the present petitioners, namely, Baldev Singh and Randhir Singh had also been named in the original FIR, but after completion of investigation, their names were not recommended for the trial by the Investigating Officer. In addition, Ld. counsel for the petitioners has drawn attention of the Court to the statements

given by the other prosecution witnesses, namely, Lachhman Singh (PW-1) and Sewak Singh (PW-2). Both of them had denied any knowledge of the alleged occurrence as claimed by the complainant. It may, however, be observed that both the aforesaid witnesses were declared hostile on behalf of the prosecution. At any rate for the purpose of deciding the application under Section 319 Cr.P.C., the Court is not expected to conduct a mini trial. On the other hand, the Bench mark prescribed to test whether an appropriate case to invoke the power under Section 319 Cr.P.C. is made out is that there should be a little more than *prima facie* material before the Court to indicate involvement of the concerned intended accused, but not that it must necessarily lead to his conviction [see “**Hardeep Singh Vs. State of Punjab**” (2014) 3 SCC 92].

[4]. In the present case, admittedly, the present petitioners were mentioned as culprits in the original FIR. For whatsoever reasons their names for trial were not recommended by the Investigating Officer. But in his evidence in Court, the complainant reiterated the specific allegations against those petitioners which were also narrated in the original FIR. Therefore, it cannot be said that the requisite level of material to invoke the power under Section 319 Cr.P.C. was not before the Ld. Trial Court when the impugned order was passed.

[5]. For the aforesaid reasons, this Court finds no merits in the instant petition and is, accordingly, dismissed.

28.08.2017*Bhumika***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes

2. Whether reportable: No