

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

CRR-367-2017(O&M)

Date of decision: 19.9.2017

Aamin @ Amin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Munfaid Khan, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This revision petition is directed against the order dated 21.1.2017 passed by the Court of learned Additional Sessions Judge, Nuh vide which application preferred under Section 319 Cr.P.C. to summon petitioner Aamin along with other persons namely Ashraf, Jamil and Sarafat as additional accused has been partly allowed inasmuch as the petitioner has been summoned as an additional accused, whereas the application qua other remaining three persons namely Ashraf, Jamil and Sarafat has been dismissed.

Briefly stated, the facts of the case are that complainant

Dilshad had got his statement recorded with the police, which formed basis for registration of the FIR. In the said statement, he had stated that on 16.4.2016 at about 5:30 p.m., he along with Arshad was going to Malab from their village Dihana; that when they reached near Government School, they observed Sarafat son of Muddin, Tairk son of Jamil, Jamil son of Islam, Abdul son of Noordin, Asraf son of Sahid, Aamin son of Rahim Khan giving beatings to Mohammad Faisal, Nisar and Imtiyaj; that the assailants were armed with lathies, dandas, fawra and farsa; that when they tried to intervene, then Tarif gave a lathi blow to complainant hitting him on shoulder; that the assailants had given blows on head of Arshad; that the complainant raised alarm, which attracted Mustfa son of Sahabuddin and his uncle Jabbar son of Yasin to the spot, who intervened and rescued them from the clutches of the accused. Thereafter, all the accused ran away from the spot along with their respective weapons giving threats. The injured were taken to Medical College, Nalhar, where the injured were medico legally examined.

After registration of FIR, the matter was investigated. Name of the present petitioner along with Sarafat, Ashraf and Jamil was placed in column No.2 whereas remaining accused Abdul and Tarif Anwar were sent up to face trial. During the trial prosecution examined Dilshad complainant as PW1, who stated as under:

“That 16.4.2016, at about 5:00/5:30 p.m., I along with my brother Arshad was going to Malab from our village Dihana. When we reached near the house of Jumme Khan, we heard some noise of altercation and we rushed towards

the house of Jumme Khan where se saw Aamin son of Rahim Khan, Ashraf son of Sahid, Sharafat son of Muddin, Abdul son of Noordin, Tarik son of Jamil, Jamil son of Islam. They were giving beatings to Mohammad Faizal, Mohammad Nisar and Imtiyaj. All the accused were having lathi, danda and farsa in their hands. When we tried to rescued them from the clutches of the accused, Aamin gave a blow of lathi on the head of Arshad. Tarik gave a blow of lathi on my shoulder. We fell on the ground. We raised hue and cry, on hearing of which, Mustafa and Jabbar came to the spot and rescued us from the clutches of the accused. All the accused threatened that we would be killed whenever they would get a chance.”

Thereafter, the Public Prosecutor had moved an application under Section 319 Cr.P.C. which was disposed of by the trial Court in the manner as mentioned above.

Feeling aggrieved, the petitioner has approached this Court by way of filing present petition.

Notice of the petition was issued to the respondent – State and counsel representing the State put in appearance.

I have heard learned counsel for the parties besides going through the record and I am of the considered view that there is absolutely no merit in the petition.

It has to be taken note of that petitioner is specifically named in the FIR though he along with three mothers was not challaned by the

police but then during the trial complainant Dilshad, complainant of the incident has stated about participation of the petitioner in the occurrence and his having given a lathi blow on head of Arshad. Thus the trial Court by exercising the jurisdiction in a proper manner by giving reasons referring to the facts and circumstances of the case and evidence available on the file has summoned the petitioner to face trial along with other co-accused, who are already facing trial in the Court, whereas declining the request as regards three other persons mentioned in the application. The order can certainly be not termed as illegal suffering from any legal infirmity much less perverse having been passed against settled principles of criminal jurisprudence.

In view of the above discussion, no infirmity or illegality in the impugned order is found to be there which might have warranted interference by this Court while exercising revisional jurisdiction. Resultantly, the revision petition stands dismissed.

Copy of the order be sent to the trial Court for information and necessary action.

19.9.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No