

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

**CRR No.4141 of 2017 (O&M)  
Date of Decision: November 15, 2017**

Tinku and others

...Petitioners

VERSUS

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sunny Bhardwaj, Advocate  
for the petitioners.

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**INDERJIT SINGH, J.**

The present revision petition has been filed by petitioners against respondents State of Hayrana and Virender, challenging the impugned order dated 20.09.2017 vide which the application filed by the prosecution under Section 319 Cr.P.C. was allowed.

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

From the record, I find that challan was presented in case FIR No.46 dated 22.01.2017 under Sections 302, 326, 147, 148, 120-B, 149 IPC and Section 25 of the Arms Act. During the pendency of the trial, an application was filed by the prosecution under Section 319 Cr.P.C. for summoning the present petitioners namely Tinku, Sachin @ China and Mohan as additional accused to face trial along with the accused already

facing trial. The brief facts of the case as noted down by learned Addl. Sessions Judge, Hisar, in the impugned order dated 20.09.2017 are as under:-

*“2. The present case was registered on the statement of complainant Virender son of Mahender, who alleged that he is doing job on a shoe shop. His younger brother Sumit @ SP doing the work of property dealer and his office is situated in a street near Tikona Park, Hansi. About one years ago a dispute had taken place between his brother Sumit and Sunil @ Shuter and Mohan but that matter was settled. About one month ago, a quarrel took place between his brother Sumit and Sachin, Rahul and Goldi but they did not lodge any complaint. On 22.1.2017 at about 1-00 p.m. his brother Sunil @ SP alongwith Sunny son of Ramesh was going towards his office on motor cycle and he (complainant) had come at Jammu Kashmir society due to some personal work. When his brother reached in front of office of Tinku, Sunil @ Shuter son of Pyare lal Saini, Sachin son of Ram Chander, Goldi son of Roshan lal, Rahul son of Balwan Saini armed with knives had come out from the office of Tinku, Tinku son of Pyare lal Saini, Sachin @ China son of Krishan Saini and Mohan son of Ram Ditta empty handed had also come from the office of Tinku. Tinku, Sachin @ China and Mohan caught hold of Sumit and Sunil and accused Sachin and Rahul gave knife blows to his brother Sumit @ SP near his heart and in abdomen and his brother fell down at the spot. Thereafter, accused Sunil @ Shuter, Sachin, Rahul, Goldi caused knife blows to Sunil @ Sunny, who also fell down at the spot. Complainant further alleged that thereafter he alongwith his father with the help of other persons shifted Sumit @ SP and Sunil @ Sunny to General Hospital, Hansi but Sumit @ SP succumbed due to injuries and Sunil @ Sunny was referred to Hisar. Complainant further alleged that he and his father Mahender Singh had seen accused Sunil @ Shuter, Sachin, Rahul, Goldi, Tinku, Sachin @ China and Mohan while causing injuries to Sumit and Sunil with knives and on hearing the occurrence, when they made noise, all the accused persons fled away from the spot alongwith their knives towards Bogha Ram Colony, Hansi by saying that today they had finished their both enemies.”*

Learned trial Court, after appreciating the evidence and also discussing the law on the point, allowed the application and summoned the petitioners as additional accused to face trial vide impugned order dated

20.09.2017.

Aggrieved from the above-said impugned order, present revision petition has been filed.

From the record, first of all, I find that the petitioners, whom the prosecution wanted to summon as additional accused, have been named in the FIR. Further, it is in the FIR that about one year ago, a dispute had arisen between brother of the complainant and Sunil Shuter and Mohan, one of the accused, whom the prosecution wanted to summon. It is also there that dispute again arose between Sachin, Rahul and Goldi on one side and Sumit deceased on other side.

The perusal of the FIR shows that the allegations against the present petitioners are that they caught hold the deceased as well as the complainant-injured and injuries were given by other co-accused. Specific roles have been attributed to the petitioners. The injuries have been given by knife by other co-accused, who are already challaned. Active participation in the commission of offence has been alleged against the present petitioners Tinku, Sachin @ China and Mohan. The injured-eye witness has deposed in the Court on oath. At this stage, there is nothing on the record to hold that statement of the eye-witness is false one.

The standard of proof for summoning additional accused under Section 319 Cr.P.C. is somewhat more than prima facie case. From the evidence on record, it appears to the Court that the petitioners are also involved in the commission of the offence and they should be tried along with the accused already challaned.

From the perusal of the impugned order dated 20.09.2017, I

find that no illegality has been committed by learned Addl. Sessions Judge,

Hisar, while summoning the petitioners as additional accused. The impugned order is correct, as per law and does not require any interference from this Court.

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

November 15, 2017  
Vgulati

(INDERJIT SINGH)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |