

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.574 of 2017

.....

Date of decision:17.2.2017

Sahab Singh

...Petitioner

v.

State of Haryana and others

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Parminder Singh, Advocate for the petitioner.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned order dated 30.1.2017 passed by learned Additional Sessions Judge, Karnal, vide which application filed by the complainant under Section 319 Cr.P.C. for summoning of Ashok, Ram Phal, Rajinder, Nek Chand and Braham Pal as additional accused has been dismissed.

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

From the record, I find that challan in FIR 196 dated 20.4.2016 registered for the offences under Sections 148, 149, 323 and 506 IPC and Section 3(i), (v), (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, was filed by the Police of Police Station

Gharaunda, Karnal, against Rattan Singh, Prithvi, Ravi, Attar Singh, Parveen and Amit. The brief facts as noted down in the order dated 30.1.2017 passed by learned Additional Sessions, Karnal are as under:-

“As per case of prosecution, on 19.04.2016 at about 4.30 P.M, complainant Sahab Singh, who belongs to Scheduled Caste category, was passing through in the middle street of Village Chaura District Karnal in front of the house of Ramesh Namberdar and accused Rattan Singh was coming from opposite side on bullock-cart. Accused Rattan Singh used derogatory remarks about the caste of complainant by uttering that he will not to come before his eyes otherwise he would kill him. Complainant replied that "uncle you have got the permit to kill anybody but as to where he should go to leave the village." On hearing this, accused Rattan Singh alighted from the bullock-cart and started beating the complainant with danda on his ear and neck which resulted into breakage of danda. He also gave him fist and kick blows. He was saved by one Ashok and neighbors (sic. - neighbours). Thereafter, the complainant came to bus stand for making an application to police and in the mean time, Rattan Singh, Prithvi, Attar Singh sons of Lal Singh, Ravi and Ashok sons of Rattan Singh, Ram Phal and Rajinder sons of Jagdish, Nek Chand, Biram Pal sons of Prithvi Singh, Parveen son of Jagdish and Amit son of Ram Pal, forming an unlawful assembly and armed with dandas and

[3]

gandasis, came there and encircled the complainant with an intention to kill him and they used derogatory remarks about the caste and started beating him. They also tore his clothes and gave a blow on the head of complainant with some sharp-edged weapon. He fell on the ground even then they continued to beat him by saying that IS SAALE DEDH KO TO AAJ HI KHATAM KRAINGE. The complainant was saved by shopkeepers and other people otherwise the accused would have killed him.”

During the pendency of the trial, an application under Section 319 Cr.P.C. was filed by complainant-Sahab Singh through learned Public Prosecutor for summoning of Ashok, Ram Phal, Rajinder, Nek Chand and Braham Pal as additional accused. The learned Additional Sessions Judge, Karnal, after discussing the statement of the complainant dismissed the same.

A perusal of the record shows that as per the MLR, three injuries were shown as complaint of pain and two injuries were shown as simple injuries with blunt weapon. For these injuries, already six persons had been challaned. From the perusal of the record, it does not appear to the Court that these persons are involved in the commission of the offences. During the investigation, all these five accused persons, which the complainant wants to summon, found innocent. The learned trial Court after discussing the law in minute detail has dismissed the application. The standard of proof for summoning the additional accused is somewhat more

[4]

than *prima facie*. The trial Court held that according to the complainant, he was given beating by all the accused. If the version of the complainant is accepted, then he would have received more than 11 injuries, but there are only five injuries as per MLR and out of these three were complaint of pain. The order passed by the learned trial Court is correct as per law. No illegality has been committed by the learned trial Court while dismissing the application filed under Section 319 Cr.PC.

Therefore, from the above, I find no merit in this petition and the same is dismissed.

February 17, 2017.

(Inderjit Singh)
Judge

hsp

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