

CRM-M-11028 of 2018

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

**CRM-M-11028 of 2018
Date of Decision: 16.03.2018**

Sahil Kumar

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

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

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned Sessions Judge, Kurukshetra, dated 02.02.2018, reversing the order of the learned trial Court (Judicial Magistrate Ist Class, Kurukshetra), dated 09.09.2015, by which (order of the learned JMIC), the application filed by the petitioner herein, i.e. the complainant in the FIR under Section 319 Cr.P.C., seeking to summon Sorabh Garg and Manoj Kumar was allowed, though the reversal by the Sessions Judge, is only qua respondent no.2 herein, Sorabh Kumar.

The other accused who had been so summoned, i.e. Manoj Kumar, is stated to have approached this Court earlier, by way of CRM-M-2038 of 2016, which was allowed by this Court vide its order dated 30.11.2016, holding that as there was no mention in the FIR of (that) petitioner and his name never came up even during the investigation and therefore, simply on the testimony of the complainant as PW-1, where he was specifically named, he could not have been summoned on an application filed under Section 319 Cr.P.C.

That order has become final, not having been challenged by the petitioner.

Thereafter, respondent no. 2 herein, Sourabh, filed a revision petition before the learned Sessions Judge, Kurukshetra, leading to the passing of the impugned order, to the effect that this Court already having allowed the petition filed by a similarly placed co-accused, the petition of the other accused, i.e. the petitioner before the learned Sessions Court, also had to be allowed. That Court has also observed in the order that the name of respondent no. 2 was also not mentioned in the FIR and had also not come up during the investigation and was not even kept in column no. 2 in the report submitted under Section 173 (2) Cr.P.C., and consequently, there was no ground to invoke jurisdiction under Section 319 Cr.P.C. against him.

Before this Court, learned counsel for the petitioner has argued that the petitioner, in the FIR itself, had named one person who had attacked him as Ashok Kumar, and had also stated that there were 3-4 other persons along with him, all of whom had inflicted 08 injuries on him. He submits that therefore it was not his fault that at that stage, he did not know the names of the others, but subsequently came to know of them and therefore in his testimony he specifically named him.

Though in the opinion of this Court the argument of learned counsel for the petitioner is correct, and as such the order passed by the learned Judicial Magistrate Ist Class, Kurukshetra, would be sustainable; however, the order passed by this Court in CRM-M-2038 of 2016 on 30.11.2016 having become final, with no challenge thereto in any manner by the petitioner, for the past 01 year and 02 months and more, and obviously the trial having progressed in the meanwhile to some extent, I see no ground on which this petition can be

allowed.

Consequently, it is dismissed in *limine*.

March 16, 2018
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes