

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-11717-2017

Date of decision: 21.11.2018

Mehar Chand

..... Petitioner

Versus

State of Haryana and another

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Aditya Yadav, Advocate for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

Mr. Bijender Dhankar, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing order dated 05.09.2016 (Annexure P-2) of the trial Court, whereby application of the petitioner under Section 319 Cr.P.C., for summoning respondent No. 2-Advocate Rajnish S/o Rajender as an additional accused was dismissed and order dated 28.02.2017 (Annexure P-3) of the Revisional Court, vide which revision of the petitioner against the order Annexure P-2 was also dismissed, affirming the order of the trial Court.

In nutshell, brother of the petitioner was murdered. One Jagdish @ Jagga R/o of Dadri, was booked and sent for trial for committing the murder of brother of the petitioner. During trial, on

10.10.2015, three persons, namely; Krishan, Rajender Singh and Ajit, exerted pressure upon the petitioner to compromise in the murder case of his brother by extending him threats and giving beatings to him and his family members in the fields, in which Jagdish @ Jagga, aforesaid is facing trial. Consequently, FIR No. 373 dated 10.10.2015 (Annexure P-1) under Sections 323 and 506 read with Section 34 IPC at Police Station Kanina, was registered against the above mentioned three persons, who are now also facing trial.

During trial, the petitioner moved an application under Section 319 Cr.P.C., to summon respondent No. 2-Rajnish, as an additional accused, on the basis of disclosure statements of aforesaid three accused, namely; Krishan, Rajender Singh and Ajit, whereby they disclosed that at the time of alleged beatings and threatening to the petitioner, respondent No. 2 was also present with them. Learned trial Court after hearing both the sides dismissed the said application of the petitioner vide impugned order Annexure P-2.

Being aggrieved, the petitioner preferred revision before the Revisional Court, which too was dismissed vide judgment Annexure P-3.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that respondent No. 2- Advocate Rajnish, was also accompanying the accused already facing trial and, thus, was an active participant in the occurrence in which the petitioner and his sister-in-law Rekha, were extended threats and caused injuries, to exert pressure upon them to compromise the matter in murder case of his brother.

On the other hand, learned counsel for respondent No. 2 vehemently opposing the submission of learned counsel for the petitioner, pleaded the legality and validity of impugned orders of both the Courts below.

Having given anxious consideration to the rival submissions of both the side, this Court finds no merit in the instant petition for the reasons to follow:

As per version of the petitioner, name of additional accused-respondent No. 2-Rajnish, cropped up in the disclosure statement of accused, who are already facing trial which as per settled law, is a very weak type of evidence. Therefore, the same cannot be made the basis for summoning of respondent No. 2 as an additional accused.

No role has been attributed to respondent No. 2 by the petitioner. Therefore, simply accompanying the accused though not proved by any other cogent and convincing evidence except the disclosure statements of co-accused, who are already facing trial does not make him liable to face trial.

During investigation, no complicity of respondent No. 2 was found in the alleged commission of crime. Therefore, his name was placed in column No. 2 of the final report under Section 173(2) Cr.P.C. by the police, as innocent. No other additional evidence was brought on record by the petitioner over and above collected by the police, during investigation to summon respondent No. 2 as an additional accused. Therefore, application of the petitioner under Section 319 Cr.P.C., has rightly been dismissed.

I have gone through the impugned orders (Annexures P-2 and P-3) of both the Courts below and find no illegality or perversity in the same.

The instant petition, being meritless, is dismissed.

November 21, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No