

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

CRM-M-14848-2017

Date of decision:-19.4.2018

Randhir Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present : Mr.Karanjit Singh Brar, Advocate
for the petitioner.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner – Randhir Singh challenging order dated 2.3.2017 passed by learned Additional Sessions Judge, Bathinda accepting the revision petition against order dated 22.4.2016 passed by Judicial Magistrate Ist Class, Bathinda dismissing application under Section 319 Cr.P.C. for summoning the petitioner as additional accused.

Briefly stated, facts of the case are that FIR No.115 dated 6.1.2014 for the offences under Sections 323, 325/34 IPC was

registered on the basis of statement of complainant Harjit Singh son of Harmander Singh, resident of village Mian, Police Station Sadar, Bathinda, aged about 28 years in which he stated that on 18.11.2014, he was returning home from his agricultural land on his tractor when Randhir Singh son of Teja Singh, Jat Sikh of his village accompanied by his two sons Sukhpreet Singh and Sukhmandeep Singh having sticks came in front of his tractor and on a *lalkara* having been raised by Randhir Singh that complainant should be caught hold of and not allowed to go scot free, all three of them started giving stick blows to the complainant while he was sitting on the tractor; the complainant received the blows on his left biceps and fingers of his hand, which he had raised to save himself from the blows; the assailants had hit him on head above left eye and thigh left leg; on an alarm being raised by the complainant, the assailants ran away from the spot along with their respective weapons; the injured was taken to Civil Hospital, Bathinda, where he was medically treated and medico legally examined. A police party went there and recorded his statement, which formed basis for registration of the FIR. After registration of the FIR, the case was investigated. Accused were arrested in this case. After completion of investigation, Sukhpreet Singh and Sukhmandeep Singh were sent up to face trial, whereas it was not so as regards their father Randhir Singh, whose name was kept in column No.2 of the challan. During the trial, an application under Section 319 Cr.P.C.

was filed by the complainant through Additional Public prosecutor for summoning of Randhir Singh as additional accused. However, that was dismissed by Judicial Magistrate Ist Class, Bathinda vide order dated 22.4.2016.

Feeling aggrieved the complainant had preferred a revision petition in the Court of Sessions, which was assigned to Additional Sessions Judge, Bathinda, who vide order dated 2.3.2017 accepted the revision petition and set aside the order passed by Judicial Magistrate Ist Class, Bathinda and directed him to re-consider the application under Section 319 Cr.P.C. after going through the evidence on record and deciding the application afresh.

I have heard learned counsel for the petitioner besides going through the record.

The operative part of the order passed by learned Additional Sessions Judge, Bathinda is as under:

“Perusal of the record shows that the revision-petitioner/complainant suffered statement before the police alleging that on 18.11.2014 when he was going towards his own village on Tractor at about 3:30 p.m. then Randhir Singh son of Teja Singh alongwith his sons namely Sukhpreet Singh and Sukhmandeep Singh armed with Sottis came there. Randhir Singh raised Lalkara to catch the complainant and not to let him go. He has further alleged that all the three persons started

beating him with Sottis and when he raised his hand in order to save himself, he suffered injuries with the Sotti blow on his arms and head, left eye, left thigh and left leg. On the basis of this statement, FIR was registered. While appearing in the witness box, the complainant has reiterated the same version and has raised specific allegations against Randhir Singh and his sons. Randhir Singh was kept in Column No.2 and was declared innocent by the police. The learned Lower Court has not appreciated that at the time of summoning the additional accused, the Court is to see if the accused can be convicted on the allegations. The learned Lower Court has erred in observing that no specific injuries have been attributed to Randhir Singh and there is no evidence on the record whereas the complainant has specifically stated about the role played by Randhir Singh and the beatings with Sottis. Thus, the learned Lower Court has not appreciated the documents and the statements on the record. Hence, the order is illegal and is liable to be set aside and is ordered to be set aside. The learned Lower Court is directed to reconsider the application under Section 319 of Cr.P.C. after going through the evidence on the record and decide the application afresh. Thus, the

present revision petition is accepted.”

I do not see any illegality or infirmity in this order, rather it is based upon proper appraisal and appreciation of evidence and correct interpretation of law.

Learned counsel for the petitioner has referred to authorities **Babubhai Bhimabhai Bokhiria and another Versus State of Gujarat and others, 2014(5) SCC 568** and **Brijendra Singh and Ors. Versus State of Rajasthan, 2017(3) R.C.R.(Criminal) 374** in support of contention that the material available on the record does not warrant summoning of petitioner as an additional accused. However, I find that the learned Additional Sessions Judge, Bathinda has merely asked the trial Magistrate to reconsider the application after going through the evidence on record and deciding it afresh noting down that in the statement made by the complainant to the police, petitioner is specifically named and specific role has been attributed to him in the incident. Furthermore, finding by the police in the investigation cannot override the conclusion drawn by the Court on the basis of material placed before it. The authorities referred to by learned counsel for the petitioner do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

I do not see any reason to interfere with the impugned

order passed by learned Additional Sessions Judge, Bathinda while exercising jurisdiction under Section 482 Cr.P.C.

The petition being without merit stands dismissed accordingly.

19.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No