

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-22056 of 2018
Date of Decision : 22.05.2018

Suraj Bhan

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Amit Khatkar, Advocate for the petitioner.

Anupinder Singh Grewal, J.(Oral)

The petitioner is seeking quashing of order dated 04.04.2018 (Annexure P-4) passed by Additional Sessions Judge, Jind, whereby the revision petition preferred by the private respondents have been allowed and the order passed by the trial Court on 07.10.2017 summoning the private respondents as additional accused under Section 319 Cr.P.C. has been set-aside.

In the instant case, FIR had been registered by the complainant, Suraj Bhan, who had stated therein that he along with his wife had received injuries. It is also mentioned that Ishwar, who was armed with Gandasi, had caused the injuries. Although respondents No. 2 and 3, namely, Dhanpati Devi and Nisha, have been named in the FIR but after investigation, the challan was filed only against accused Ishwar. The petitioner had filed an application under Section 319 Cr.P.C. for summoning of Dhanpati Devi and Nisha as additional accused, which was allowed by the trial Court. This order was set-aside by the Additional Sessions Judge by the impugned order dated 04.04.2018.

It is manifest from perusal of the impugned order that respondent No. 2, Dhanpati Devi, who is mother of Ishwar, is over 60 years of age while respondent No. 3, Nisha is the wife of main accused, Ishwar. The incident is stated to have taken place at 7.00 P.M. on 28.08.2014 but the FIR was registered after three days i.e. on 31.08.2014. The medico legal examination of the injured is also stated to have been conducted on 28.08.2014. It is, thus, possible that the FIR has been recorded after due deliberation and female members of the family have also been roped in. The injuries on person of the complainant are simple in nature. It is mentioned in the FIR by the complainant that he had also caused injuries to accused Ishwar.

It is well settled that summoning under Section 319 Cr.P.C. is not to be done merely at the asking of the complainant. It is a discretionary and extra ordinary power which should be exercised sparingly. There has to be sufficient material on record in support of the summoning. Reference can be made to the judgment of the Supreme Court in the case of ***Brijendra Singh and others Vs. State of Rajasthan***, (2017) 7 SCC 706, wherein it was held as under :-

"The degree of satisfaction is more than the degree which is warranted at the time of framing of the charges against others in respect of whom charge-sheet was filed. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised. It is not to be exercised in a casual or a cavalier manner. The prima facie opinion which is to be formed requires stronger evidence than mere probability of his complicity."

In the instant case, the impugned order, whereby the order

of summoning has been set-aside, does not suffer from any manifest illegality, which would warrant interference while exercising jurisdiction under Section 482 of the Cr.P.C.

The petition is, therefore, dismissed.

However, nothing whatsoever, which has been observed herein-before as well as in the impugned order by the Additional Sessions Judge, shall be construed to have any bearing on the merits of the case.

May 22, 2018
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(ANUPINDER SINGH GREWAL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>