

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-39435-2016 (O&M)

Date of decision : 20.2.2018

Chander Pal and others

... Petitioners

VERSUS

Birma Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. J.S.Hooda, Advocate,
for the petitioner.

Mr. Ashok Muthreja, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.(Oral)

This is a petition praying for quashing of order dated 25.5.2015 passed by learned Additional Chief Judicial Magistrate, Palwal vide which the petitioners were summoned under Section 319 Code of Criminal Procedure to face trial under Sections 147, 148, 323, 506 read with Section 149 Indian Penal Code as well as order of revisional court dated 10.10.2016 vide which the revision filed by the petitioners against the order dated 25.5.2015 was dismissed.

Undisputedly, in the FIR as well as in the deposition of PW1, specific role has been attributed to the petitioners in the crime. While appearing as PW1-Birma Devi deposed as under : -

“..... Chander Pal gave a sword blow on my head and Roshan Lal was having Axe, Samai was having Saria in his hand with which he gave blow on my left ribs, Rahul gave a lathi blow on my back and I received many injuries which were on my ears, nose and hands. My son Devi Lal was hit by an axe by Roshan Lal. Gurdayal gave a lathi blow on the shoulder of Devi Lal.

Dalbir gave a Saria blow on the shoulder of my son Pawan and Rakesh gave a lathi blow on the other hand of Pawan. Jai Singh gave a Saria blow on the head of Vinod. Narender gave a lathi blow on Vinod. Dori Lal gave a lathi blow on the back of Bijender. Devi Singh gave up lathi blow to my husband Baljit.....”

After going through the material available on record, learned Magistrate summoned the petitioners as additional accused under the provisions of Section 319 Code of Criminal Procedure. The revisional Court again reconsidered the matter and found the order of learned Magistrate fully legal and valid and thus, dismissed the revision petition.

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

A bare perusal of the FIR as well as deposition of PW1-Birma Devi makes it abundantly clear that a *prima facie* case is made out against the petitioners for their inclusion as additional accused to face trial for offence under Sections 147, 148, 323, 506, 149 Indian Penal Code.

The impugned orders do not suffer from any irregularity, illegality or infirmity. No case is made out to interfere therein, as such, the same are affirmed. As a result, this petition is devoid of merits and is dismissed.

However, nothing expressed above shall have any bearing on the merits of the case.

(RAJ SHEKHAR ATTRI)
JUDGE

February 20, 2018

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No