

201

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

CRM-M No.39200 of 2017
Date of Decision: 18.01.2018

Surjit Singh

....Petitioner

Vs

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Randhawa, Advocate,
for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

Mr. Sahil Kaushal, Advocate,
for respondent No.2.

RAJ MOHAN SINGH, J.(Oral)

1. Learned counsel for the petitioner submits that in CRR No.4611 of 2015 titled Amrik Singh vs State of Punjab and another decided by the Coordinate Bench on 09.08.2016, following observations were made:-

“In the circumstances, the plea against Baljit Singh (respondent No.2) is allowed. Consequently, this petition qua him is allowed and the charge is modified to that of Section 302 of the IPC in place of Section 304 of the IPC.

As regards Surjit Singh, learned counsel for the petitioner has argued that he had fired shots which is proven from the recovery of .32 bore cartridges from the site and Surjit Singh owns a pistol of .32 bore.

In my opinion, this argument would not suffice because in his statement, Naib Singh-injured has himself stated that Surjit Singh had fired shots in the air. Once that is the stand of the complainant party, no criminal charge can be brought against Surjit Singh. Consequently, this petition is dismissed qua Surjit Singh.”

2. Petitioner has been summoned under Section 319 Cr.P.C. as an additional accused.

3. Learned counsel for the petitioner relies upon para no.109 of **Hardeep Singh vs State of Punjab and others, 2014(1) RCR (Criminal) 623** and contended that once the charge was not framed against the petitioner, then he could not be summoned under Section 319 Cr.P.C. without taking recourse to Section 300(5) read with Section 398 Cr.P.C.

4. In compliance of order dated 13.10.2017, petitioner has appeared before the trial Court on 17.10.2017 and has furnished bail bonds and surety bonds to the satisfaction of trial

Court.

5. Learned counsel has placed on record certified copy of order dated 17.10.2017 on record.

6. This factual position has not been denied by learned State counsel on instructions from HC Shivinder Singh and learned counsel for the complainant/respondent No.2.

7. In view of above, order dated 13.10.2017 is hereby made absolute.

8. Disposed of.

18.01.2018

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No