

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

**CRM-M No.46721 of 2017 (O&M)  
Date of Decision : 17.01.2018**

Satyavir Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present : Mr. Shashikant Gupta, Advocate  
for the petitioner.

**SUDIP AHLUWALIA, J. (ORAL)**

**CRM No.1079 of 2018**

Allowed as prayed for.

**CRM-M No.46721 of 2017**

Notice of motion.

2. On asking of the Court, Mr. Sandeep Vashisht, Deputy Advocate General, Haryana accepts notice on behalf of respondent No.1-State. A copy of the paper book be handed over to him during the course of the day.

3. This petition is directed against the order dated 18<sup>th</sup> August, 2017 (Annexure P-1) passed by the Ld. Additional

Sessions Judge, Narnaul in Criminal Revision No.41 of 2016.

4. Vide the impugned order, the Ld. Additional Sessions Judge, Narnaul had been pleased to set aside an earlier order passed by the Ld. Judicial Magistrate 1<sup>st</sup> Class, Narnaul, who was pleased to dismiss an application under Section 319 of the Cr.P.C. filed on behalf of the prosecution to summon the present petitioner as an accused in the case.

5. Background of the matter is that the FIR was lodged against four accused persons including the present petitioner. But after investigation the Police submitted challan against only three. Name of the petitioner was kept in Column 2 as according to the Investigating Officer, he was not found to be involved in the occurrence.

6. After the Complainant/Victim-Rai Singh (respondent No.2) had deposed as PW-1 in the Ld. Court below, the application to summon the petitioner as an additional accused was filed. It was so because the complainant in his deposition gave positive statements implicating the petitioner as one of the persons involved in the alleged assault/occurrence, along with the charge-sheeted accused. Those statements were by and large are identical with the allegations made against the petitioner in the original FIR.

7. The Ld. Trial Court however dismissed the application by holding that since the material emerging from the complainant's deposition was the same which was already available in the original FIR, and had been also considered by the Investigating Authority who had found the petitioner to be not involved in the occurrence, so he could not be summoned on the basis of the self same material.

8. The aforesaid decision of the Ld. Trial Court was set aside by the Ld. Court of Sessions which in its impugned order observed *inter alia*;

*“The revisionist had categorically named Satyaveer as one of the accused in the FIR and while appearing as PW1 he fully supported his version of the FIR. He has attributed specific injuries to accused Satyaveer. Under these circumstances the test laid down in '**Hardeep Singh vs. State of Punjab, 2014 (1) RCR (Criminal) 623**' is satisfied as there exists more than prima facie case against the said accused Satyaveer. The revision petition is therefore allowed and the trial Court is directed to summon the said accused Satyaveer as additional accused and proceed further with the trial.”*

9. Ld. Counsel for the petitioner has however drawn attention of the Court to the admission made by the complainant in his cross-examination to the effect that the petitioner is, “working in the Force (Army)”. Hence, it is contended that on account of being in the Army, the petitioner could not have been involved in the occurrence at the relevant time.

10. In the opinion of the Court however this is a fallacious argument. If the petitioner was actually not present at the time of occurrence on account of his deployment/posting wherever he happens to be stationed in the Army, such fact ought to have been mentioned by the Investigating Officer after verification before placing his name in Column 2 of the challan. But as rightly observed by the Ld. Additional Sessions Judge, the Investigating Officer failed to spell out any specific reason for which he found the petitioner as not being involved in the occurrence.

11. In the light of the material emerging against the petitioner both in the original FIR as well as through the subsequent deposition of the complainant in Court, this Court is in agreement with the Ld. Additional Sessions Judge that the test laid down in '**Hardeep Singh vs. State of Punjab, 2014 (1) RCR (Criminal) 623**' for the purpose of summoning the petitioner as an

additional accused is satisfied.

12. The Court therefore finds no merits in the present petition.

13. Dismissed.

January 17, 2018  
Dpr

(SUDIP AHLUWALIA)  
JUDGE

|                            |          |
|----------------------------|----------|
| Whether speaking/reasoned: | Yes/No   |
| Whether reportable         | : Yes/No |