

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 2271 of 2014

Date of Decision:-14.8.2018

Sukhchain

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sushil Bhardwaj, Advocate for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana
with ASI Satish.

Mr. P.C.Dhanwal, Advocate for respondent no.2.

Mr. Sandeep Parkash Chahar, Advocate
for respondent No.3.

GURVINDER SINGH GILL, J.

1. The petitioner assails order dated 14.7.2014 passed by Additional Sessions Judge, Bhiwani whereby an application filed under Section 319 Cr.P.C. on behalf of the prosecution for summoning Surinder @ Kalu and Ravi son of Ajit Singh as additional accused has been dismissed.
2. The FIR, in the present case, was lodged at the instance of Surender son of Randhir Singh whereby it has been alleged that on the day of occurrence when he along with Sukhchain and Mahabir Singh were present at the shop of Pawan, then the accused came there in a Santro car and a motorcycle. Ram Mehar, Manoj, Sonu and Surinder @ Kalu alighted from the car. Chaman Balmiki and son of Ajit also came there. It is alleged that Ram Mehar fired from his pistol at Sukhchain Singh hitting him on his right arm. Manoj fired

from his pistol at Sukhchain Singh hitting him on his back. While Sukhchain Singh fell on the ground, Sonu also fired at Sukhchain Singh from his pistol hitting him on his chest. It is alleged that Surinder @ Kalu also fired at Sukhchain Singh with his pistol hitting him on his right hand. Chaman Balmiki and son of Ajit who were also holding pistols threatened that in case anybody comes forward to save him, he will be eliminated. The complainant alleged that Manoj fired another shot at Sukhchain Singh which hit the wall and thereafter hit the left hand of the complainant.

3. Upon investigation, the police presented challan against seven accused while Surinder @ Kalu and Ravi were kept in column no.2. After framing of charges, statements of prosecution witnesses were recorded. The prosecution after recording statement of Sukhchain Singh moved an application under Section 319 Cr.P.C. seeking summoning of Surinder @ Kalu and Ravi son of Ajit Singh as additional accused, which was dismissed by the learned Additional Sessions Judge vide order dated 14.7.2014, which has been impugned in the present revision petition.
4. The learned counsel for the petitioner, while assailing the impugned order has submitted that the trial Court fell in error in dismissing the application under Section 319 Cr.P.C. whereas the evidence led by the prosecution especially the testimony of PW-10 Sukhchain Singh fully substantiates the involvement of Surinder @ Kalu and Ravi.
5. On the other hand, the learned counsel representing respondents no.2 and 3 have submitted that there is no infirmity in the impugned order and that the police after thoroughly investigating the matter had kept Surinder @ Kalu

and Ravi in column no.2 and that no credible fresh evidence has been led by the prosecution so as to justify summoning of Surinder @ Kalu and Ravi.

6. I have considered rival submissions addressed before this Court and have also perused the impugned order. I find that while in the FIR, Surinder @ Kalu is duly named and it is alleged that he was also carrying a pistol and had fired at Sukhchain Singh, hitting him on his right hand but when the said Sukhchain Singh stepped into the witness box as PW-10, he had stated that he was hit by Sukhchain Singh on his back. The said inconsistency in the version put forth in the FIR and the statement of the injured would certainly put this Court at caution, more particularly, when the complainant himself has not stepped into the witness box to put forth his version. Further, although Sukhchain Singh, while in the witness box, has stated that Surinder @ Kalu fired at him hitting him on his back, the said injury on the back of Sukhchain Singh is also attributed to Manoj as per FIR.
7. In view of the aforesaid inconsistencies, it certainly cannot be said that there is sufficient credible evidence on record to justify summoning of Surinder @ Kalu, who had been found innocent during the course of investigation. As regards, Ravi, I find that although he is not named in the FIR but is referred to as the son of Ajit Singh. PW-10 Sukhchain Singh, while in the witness box, has stated that Ravi son of Ajit and Sonu used to roam in the street on a motorcycle and that he had protested and apprised members of their family about their conduct. The aforesaid evidence again is not sufficient enough to put a person to trial, especially when there is no specific attribution.

8. In view of the aforesaid position, I do not find any infirmity in the impugned order and the same is hereby upheld. There is no merit in this revision petition and the same, being devoid of merits, is hereby dismissed.

14.8.2018
kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No