

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

CRR No. 3241 of 2016

DATE OF DECISION :- March 27, 2018

Joginder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Rakesh Dhiman, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana

Mr. M.S. Kathuria, Advocate for respondents no. 2 to 7.

This Revision Petition has been filed by complainant Joginder Singh challenging order dated 12.8.2016 passed by Judicial Magistrate Ist Class, Gurgaon vide which application under Section 319 Cr.P.C. for summoning Sukhpati, Seema, Bhagoti, Anita, Sunita and Sushma arrayed as respondents no. 2 to 7 in the petition in case F.I.R. No. 140 dated 2.7.2012 under Sections 148, 149, 323, 325, 506 IPC registered at Police Station Bilaspur, District Gurgaon has been dismissed.

According to the petitioner, the trial Court has exceeded its power while examining the evidence of the complainant meticulously and minutely, which is beyond the scope of under Section 319 Cr.P.C. and the trial Court is concerned only with the existence of prima facie case in view of constitutional judgment rendering in case of “Hardeep Singh versus State of Punjab 2014(3) SCC 92.”

Notice was given to the respondents, who put in appearance.

I have learned counsel for the petitioner, learned counsel for respondents no. 2 to 7 and learned State counsel besides going through the record.

Respondents no. 2 to 7 though named in the F.I.R. got recorded at the instance of complainant Joginder Singh had not been challaned. During the trial statement of complainant Joginder Singh and PW Sultan were recorded in which they named all the accused assailants. An application under Section 319 Cr.P.C. had been filed by the State counsel for summoning of respondents no. 2 to 7 as additional accused but the same was declined by the trial Court.

I find that the impugned order does not suffer from any illegality or infirmity much less apparent on the face of it. The trial Court has discussed the scope of Section 319 Cr.P.C. and considered the law on the subject that a person should not be summoned to face trial if prima facie case was not made out against him and he should be summoned only if Court feels that evidence on record is such which would reasonably lead to conviction of a person sought to be summoned. In the concluding part of the order, it has been observed as under :-

“Now, coming to the facts and circumstances of the present case, the prosecution came into motion on the complaint of PW-4 Joginder who alleged in his complaint Ex.PW-4/A that on 19.06.2012 at about 8.10 A.M. he was present in his house and his father, mother and wife were also present in the house. Suddenly, Krishan (carrying iron rod), Jai Lal (carrying Jelly), Ankit (carrying iron pipe), Bijender (carrying iron rod), Devender (carrying iron rod), Seema (carrying stick), Bhagoti (carrying stick) Sukhpati (carrying stick), Anita (carrying stick) and Sunita (carying hockey) and Sushma (carrying danda) came

to their house and gave a Lalkara. Thereafter, they all attacked PW-4 Joginder Singh with stick and iron rod. On hearing noise father of PW-4 Joginder came who was also given beatings by all the accused and same thing happened with wife of PW-4. Thereafter, accused went away giving threats of dire consequences in future. In the witness box complainant Joginder appeared as PW-4 and reiterated the allegations on oath. His statement was corroborated by PW-5 Sultan Singh (father of PW-1). However, it is to be noted that neither PW-4 nor PW-5 specifically attributed injury to any of the person proposed to be made as accused in the present case. It has become a general tendency to implicate all the family members in an incident including the females. Nothing new was told by PW-4 and PW-5. There is no averment in the application that police colluded with the accused party and intentionally absolved the accused in the present case. Accordingly, there is no ground to summon accused Seema, Bhagoti, Sukhpati, Sunita, Anita and Sushma as an additional accused in the present case. Hence, the application under Section 319 Cr.P.C. is dismissed.”

In my view, there is no reason to interfere with the impugned order while exercising the revisional jurisdiction. Therefore, the Criminal Revision Petition stands dismissed.

(H.S. MADAAN)
JUDGE

March 27, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No