

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

**Crl. Revision No.4562 of 2015 (O&M)
Date of Decision: September 06, 2018**

Kamrudin

.....PETITIONER(s).

VERSUS

State of Haryana and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Karan Pathak, Advocate
for the petitioner (s).

Mr. Deepak Grewal, D.A.G., Haryana.

Mr. Sarfraj Hussain, Advocate
for respondents No. 2 to 9.

SURINDER GUPTA, J.(Oral)

Heard.

The occurrence took place on 26.01.2014, in which the petitioner and six other persons suffered injuries. Respondents namely Faruk and Arif were named in the FIR. In his statement recorded under Section 161 Cr.P.C. Ali Mohd. has specifically stated that Arif son of Jasmal gave a lathi blow on his shoulder near his neck while Faruk son of Noor Mohd. gave an iron rod blow on his head. While appearing as PW-2 Ali Mohd has reiterated his statement.

Learned counsel for the petitioner confines his submissions only for summoning of Arif son of Jasmal and Faruk son of Noor Mohd.,

who have been named in the FIR and has not pressed this petition qua the other private respondents.

Learned counsel for the private respondents submits that the FIR was registered in this case on the statement of Kamrudin after 14 days of the incident and in the FIR no specific role was attributed against respondents Arif and Faruk. The petitioner have named 18 persons out of whom 8 were found innocent by the police and challan was filed against remaining 10 accused. Even the statement of Ali Mohd. was recorded on 15.03.2014 i.e. about two months after the occurrence. When the matter was reported to the police, it was found suspicious and thereafter investigation was conducted in which all the private respondents were found innocent.

Learned trial Court has declined the application filed by the prosecution under Section 319 Cr.P.C. only on the ground that general allegations have been levelled against the private respondents. The trial Court has not taken note of the fact that specific allegations of causing injury have been levelled against respondents Arif and Faruk and these allegations are in statement of Ali Mohd. recorded by the police under Section 161 Cr.P.C. as well as in Court.

At the stage of summoning a person as an additional accused, the trial Court is required to see evidence on record to find if more than prima facie case is made out to summon him. The injuries attributed to Arif and Faruk were allegedly found on the person of Ali Mohd. on his medical examination. This fact corroborates his testimony which cannot be ignored at this stage. Consequently, the order passed by the trial Court is set aside to the extent vide which summoning of respondent No. 3 Faruk son of Noor

order of the trial Court regarding other private respondents is maintained. Faruk son of Noor Mohd. and Arif son of Jasmal are ordered to be summoned as additional accused to face trial along with other accused named in the FIR.

Disposed of accordingly.

Copy of this order be sent to the trial Court.

September 06, 2018
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*