

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.245

CRR-2986-2017 (O&M)
Date of decision : 12.09.2018

Angrez Singh

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.P Sharma, Advocate, for the petitioner.

Mr. M.D. Sharma, AAG, Haryana.

Mr. Partap Singh, Advocate, for respondent No.2.

SUDHIR MITTAL, J. (Oral)

The petitioner is the complainant. The deceased is his brother, who died on 20.07.2016, resulting in registration of FIR No.461 dated 20.07.2016, under Sections 302 and 34 IPC at Police Station, Assandh, District Karnal.

Two persons were named as co-accused in the said FIR. Their names are Suba Singh and Palvinder Singh. However, the police found Palvinder Singh innocent and presented challan only against Suba Singh. During the course of the trial, an application under Section 319 Cr.P.C. was moved by the complainant for summoning Palvinder Singh as an additional accused and vide impugned order dated 11.08.2017, the same has been rejected.

Learned counsel for the petitioner submits that the complainant implicated Palvinder Singh while getting his statement recorded with the police and therefore, Palvinder Singh's name finds mention in the FIR. He reiterated the statement made by him earlier while appearing as PW-1. Even PW6 ASI-Gurdial Singh has stated that lathi, danda, pechkas and rope were got recovered by Suba Singh and this substantiates the stand of the petitioner

that more than one person was involved in the incident as a single assailant could not have used all the weapons got recovered. Therefore, in view of the judgment in 'Hardeep Singh Vs. State of Punjab and others, 2014 (3) SCC 92', the trial Court has erred in rejecting the application under Section 319 Cr.P.C.

Learned counsel for respondent No.2 contests the stand of learned counsel for the petitioner. He relies upon statements of PW3 Lakha Singh and PW4 Ajvinder Singh, which have been referred to by the trial Court. According to their statements, respondent No.2 and his mother were trying to stop Suba Singh from inflicting injuries upon the deceased person. Their statements further reveal that the deceased person sat on the motorcycle alongwith his parents and left the place of occurrence hale and hearty. He was brought to the hospital on the next day at about 11.00 a.m, whereafter, he passed away. It is, therefore, his submission that in the light of the evidence on record, the trial Court was justified in passing the impugned order.

Hardeep Singh's case (supra) lays down that while summoning an additional accused under Section 319 Cr.P.C, the trial Court should be satisfied that the evidence on record is sufficient to summon such a person as an additional accused. The sufficiency of the evidence and the satisfaction to be recorded by the trial Court based thereupon should be more than a prima facie case, but less than that required for conviction. The evidence on record when examined in totality cannot be said to fulfill the requirements of Hardeep Singh's case (supra). The trial Court has referred to the statements of PW3 Lakha Singh and PW4 Ajvinder Singh, which have been read over to me in Court and which have been referred to in the

No.2. Thus, it cannot be said that the trial Court committed any error in passing the impugned order. The trial Court could not record satisfaction of the level required under Section 319 Cr.P.C. and I do not find any perversity in the order passed by it.

The revision petition has no merit and the same is accordingly dismissed.

(SUDHIR MITTAL)
JUDGE

12.09.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No