

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3383-2017 (O&M)

Date of decision: 26.10.2018

Chaman Lal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vikas Kumar, Advocate for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

Mr. KP Singh, Advocate for respondents No. 2 and 3.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the order dated 23.08.2017, whereby application of the petitioner through prosecution under Section 319 Cr.P.C., for summoning respondents No. 2 and 3, namely; Anil and Rajwati, as additional accused was dismissed.

Briefly, complainant-petitioner was a witness to a murder case, in which Jeet Singh-father and husband of respondents No. 2 and 3, respectively, had murdered his own father, namely; Basti Ram. Therefore, to abstain the petitioner-complainant from giving evidence against Jeet Singh, respondents No. 2 and 3 along with Avtar Singh another son of Jeet Singh and 4-5 other persons, in the evening of 12.11.2014, entered into the house of petitioner-complainant in a pre-planned manner and caused multiple injuries to him and his two brothers, namely; Rambir and Bijender, with their deadly weapons.

Consequently, FIR No. 410 dated 12.11.2014, under Sections 148, 149, 323, 452, 506 and 307 IPC and Section 25 of the Arms Act, Police Station Surajkund, District Faridabad, was registered against total 7 persons, namely; respondents No. 2 and 3 and Avtar Singh, Jai Parkash, Janak, Anuj and Naresh. However, during investigation, respondents No. 2 and 3 were found innocent. Therefore, they were placed in column No. 2 of the final report under Section 173(2) Cr.P.C. After framing of charge, the petitioner-complainant as PW-8 and PW-10 Bijender (wrongly mentioned as PW-7 and PW-9, respectively), testified about the complicity and active role of respondents No. 2 and 3 in the commission of crime. Since, evidence had come on record against respondents No. 2 and 3, resultantly, prosecution moved an application under Section 319 Cr.P.C. for summoning them as additional accused.

Learned counsel for the petitioner *inter alia* contends that the Investigating Officer, did not give any reasoning in the final report under Section 173(2) Cr.P.C., for exonerating respondents No. 2 and 3 of their role. The petitioner-complainant as PW-8 and his injured brother-Bijender as PW-10, specifically deposed about the active role of respondents No. 2 and 3. Therefore, the trial Court has wrongly and illegally dismissed the application of prosecution under Section 319 Cr.P.C. Respondent No. 2-Anil, had caused injuries to injured-Rambir, brother of the petitioner and respondent No. 3-Rajwati, had instigated the other assailants by raising '*lalkara*' to cause injuries to the petitioner and his brothers to abstain him from deposing in a murder case against her husband-Jeet Singh.

On the other hand, learned counsel for respondents No. 2 and 3, vehemently refuting the submissions of learned counsel for the petitioner contends that only '*lalkara*' is attributed to respondent No. 3-Rajwati. According to the statement of PW-8 Chaman Lal-complainant, respondent No. 3-Rajwati, even did not come out of the car during the whole occurrence. Therefore, her complicity is not proved on the record. There is a specific motive behind false implication of respondents No. 2 and 3, due to some property dispute as the petitioner is the real cousin of Jeet Singh, aforesaid. At the behest of petitioner, false FIR under Section 302 IPC, was registered against Jeet Singh, in which he has been acquitted.

Having given anxious consideration to the rival submissions of both the sides, this Court finds merit acceptance this revision qua respondent No. 2-Anil only, for the reason that he had been attributed injuries with his stick, on the person of injured-Rambir. Despite that Investigating Officer, had declared him innocent, without giving any reasoning in the final report under Section 173(2) Cr.P.C.

As far as summoning of respondent No. 3-Rajwati is concerned, the impugned order is perfectly legal, for the reason that petitioner as PW-8 has testified that respondent No. 3 even did not alight from the car. Therefore, her complicity from any angle in the commission of crime is not proved.

In view of the discussin made above, this revision qua summoning of respondent No. 3-Rajwati is rejected and qua respondent No. 2-Anil is accepted. Consequently, the impugned order dated

23.08.2017, qua rejection of application of the prosecution under Section 319 Cr.P.C. for summoning of respondent No. 2-Anil as additional accused is set aside and he is directed to appear before the trial Court within a fortnight to face trial along with other co-accused.

Accordingly, the instant revision is partly accepted ,
modifying the impugned order dated 23.08.2017, to the above extent.

October 26, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No