

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

CRR-3555-2017(O&M)

Date of decision:-10.5.2018

Sunder and another

...Petitioners

Versus

State of Haryana and another

...Respondents

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

Present: Mr.Ashit Malik, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

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

H.S. MADAAN, J.

This revision petition is directed against the order dated 27.7.2017 vide which learned Additional Sessions Judge-I, Palwal while allowing application under Section 319 Cr.P.C. has summoned petitioners Sunder and Hemraj as additional accused to face trial.

Briefly states, facts of the case are that on 12.7.2012, an altercation had taken place between complainant Sher Singh son of Ram Sarup, resident of village Dadhota, Police Station Chandhat, District Palwal and other persons on his side as well as family of his neighbour Sukhan son of Lehri on account of drainage of water. However, the matter

was sorted out. On 13.7.2012 when the complainant Sher Singh along with his elder brothers Sube Singh and Laxman Singh were smoking *hukka* inside gallery of their house and time was about 10:30 a.m., then Sukhan along with his sons Suraj and Hemraj besides their relatives Sunder, Mohan sons of Raghubir, Chhotu @ Parveen son of Rishipal along with 8-10 other persons armed with lathies, saria, rods and pistol trespassed into the house of complainant and attacked them. Suraj fired a shot from his pistol, which grazed passed chest of complainant. Sunder gave three rod blows to the complainant hitting him on his right foot. Sukhan gave a lathi blow edgewise on right side of neck of the complainant, Chhotu alias Parveen gave a lathi blow on left side of head of the complainant, Sukhan gave a lathi blow on left hand of Laxman, Hemraj gave an iron rod blow on right hand of Laxman, Mohan gave a lathi blow on the waist of Laxman. All the assailants caused serious injuries to Sube Singh. When the complainant and other injured raised alarm, then the assailants ran away along with their respective weapons. Before leaving Suraj fired two shots from his pistol, which hit ground near the complainant and his brothers. The injured were got admitted in Civil Hospital, Palwal. However, keeping in view serious condition of complainant and his brothers Sube Singh and Laxman Singh, they were referred to B.K.H. Hospital, Faridabad. They got treatment from Escort Hospital, Faridabad. After registration of FIR on the basis of statement of complainant Sher Singh, the matter was investigated and thereafter three of the accused, namely, Sukhan, Chhotu @ Parveen and Suraj were challaned and trial against them was started, during the course of which,

an application under Section 319 had been filed by the complainant for summoning of Sunder and Hemraj as additional accused. However, that application was dismissed by learned Additional Sessions Judge, Palwal vide order dated 16.12.2013.

The complainant challenged that order in this Court by way of filing a CRR-514 of 2014, which was disposed of vide order dated 6.9.2016, in that way the revision petition was accepted and the impugned order was set aside and the matter was sent back to the trial Court to proceed ahead as per law.

Thereafter, the trial Court vide the impugned order accepted the application and summoned the petitioners as additional accused, which left them aggrieved and they have filed the present revision petition, notice of which was issued to the respondents, who put in appearance through counsel.

I have heard learned counsel for the revision petitioner, learned State counsel as well as learned counsel for the complainant, besides going through the record.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise. It has to be kept in mind that the trial Court had dismissed the application, however, that order was set aside by this Court while accepting the revision petition filed by the complainant and the impugned order was passed keeping in view the facts and circumstances of the case in light of the observations

made in the order passed by this Court. The order can certainly be not termed as perverse or having been passed in violation of settled principles of criminal jurisprudence. The trial Court is shown to have exercised its powers in a proper and judicious manner and no ground is there to set aside the order.

As regards the contentions raised by learned counsel for the revisionists that petitioners were not present at the spot at the time of occurrence and were performing their respective duties and there is discrepancy between medical and ocular evidence etc., those touch the merits of the case and can be raised during the trial but as the things stand, no ground to accept the revision petition and to interfere with the impugned order is made out.

Therefore, revision petition challenging the impugned order cannot survive and is dismissed accordingly.

10.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No