

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

CRR-3904-2017

Date of Decision:09.07.2018

Sanjay

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Munish Sharma, A.A.G. Haryana.

Mr. Shranav Katyal, Advocate and
Mr. Subhash Godara, Advocate
for respondent No.2.

P.B. BAJANTHRI J. (Oral)

In the present revision petition, petitioner has challenged order dated 19.09.2017 passed by the learned Additional Sessions Judge, Fatehabad whereby trial court partly allowed the application filed under Section 319 Cr.P.C. of the prosecution/complainant to summon the petitioner-Sanjay arising out of FIR No.197 dated 31.05.2016 for the offences under Sections 148/149/307/323/325/506 IPC and Section 25/27 of Arms Act, Police Station Bhuna, District Fatehabad.

2. Learned counsel for the petitioner submitted that even though petitioner's name is reflected in the FIR but no role has been attributed to him. The trial Court while considering the application filed under Section 319 Cr.P.C has not apprised the police version vide Annexure P-3 to the extent that petitioner and one Balbir were not found involved in the aforesaid occurrence and have been found innocent. Therefore, order dated 19.09.2017 passed by the learned Additional Sessions Judge, Fatehabad is liable to be set aside.

3. Per contra, learned counsel for the respondents while resisting the petitioner's contention pointed out that one of the injured namely Shri Sudhir who has given his statement on 7.6.2016 to the extent that petitioner gave "Danda" blow on his head. Thus, to that extent, there is involvement of the petitioner. Moreover, examination of PW-1 Vishwamitar before the Court clearly shows the involvement of the petitioner and his role. He was member of the unlawful assembly. His name was figured in the FIR. Police found him innocent during investigation but when the witnesses are deposing with regard to his role in that case his involvement is required to be examined on merit as he has been assigned specific role by the witnesses. In view of these facts and circumstances, petitioner has not made out a case so as to interfere with order dated 19.09.2017 passed by the learned Additional Sessions Judge, Fatehabad.

4. Heard learned counsel for the parties.

5. Crux of the matter in the present petition is whether petitioner's role is taken into consideration by the trial Court while deciding application filed under Section 319 Cr.P.C or not?

Having regard to the statement of one Shri Sudhir who has stated that petitioner gave a "Danda" blow on his head, it is suffice to hold that *prima facie* petitioner is involved in the alleged FIR No.197 dated 31.5.2016. Specific role has been attributed to the petitioner in the FIR and his name is specifically figured and it could not be said that he was involved and it is after thought. When the witness Vishwamitar appeared in witness box clearly mentioned his name and reiterated the version of the FIR. Merely relying on Annexure P-3 is not sufficient for the reasons that statement of Shri Sudhir is required to be taken into consideration during

trial and conclusion of the investigation. Whatever the police overlooked that is also required to be examined. Role of the petitioner is required to be examined on merit.

7. In view of the above facts and circumstances, petitioner has not made out a case so as to interfere with order dated 19.09.2017 passed by the learned Additional Sessions Judge, Fatehabad.

8. Accordingly, criminal revision petition stands dismissed.

09.07.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**