

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

109

CRR-2424-2018

Date of Decision: July 27, 2018

Badan Singh

.....Petitioner(s)

versus

State of Haryana & ors.

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Arjun Sheoran, Advocate for the petitioner.

Sudhir Mittal, J. (Oral)

The petitioner is the complainant. FIR No.161, dated 27.06.2015 was registered on his complaint at Police Station Narwana Sadar, under sections 323, 341, 452, 506, 34, 325 IPC. In the FIR, the petitioner named total of nine persons but the Police presented challan only against four persons. After presentation of the challan, the statement of the petitioner was recorded as PW1 who verbatim reiterated the contents of the FIR. Thereafter, an application under section 319 of Code of Criminal Procedure, 1973, (in short 'Cr.P.C.') was filed to summon the other five persons, as additional accused but the same has been dismissed vide the impugned order.

2. Learned counsel for the petitioner submits that the petitioner only has the option of reiterating the case in the FIR while appearing as his own witness. Apart from that, no other evidence is available with him and thus, the trial Court should have allowed the application under section 319 Cr.P.C.

3. The learned trial Court has dismissed the application as on evaluation

of the evidence on record, which consists of statement of the petitioner as well as MLR of the injured person, apart from challan presented by the Police has held that he is not satisfied that the persons sought to be summoned as additional accused were involved in the incident. It is settled law that while summoning an additional accused under section 319 Cr.P.C., the Court has to record its satisfaction that the persons sought to be summoned were in fact involved in the commission of the offence. The satisfaction is to be more than prima facie case but not enough so as to convict them. In the instant case, on evaluation of the evidence on record, the trial Court has concluded that it is unable to record its satisfaction so as to satisfy the requirements of section 319 Cr.P.C. In case the argument of the learned counsel for the petitioner is to be accepted, in every case, after recording evidence of the complainant, the persons who have been kept in column No.2 by the Police in the report under section 173 Cr.P.C. are required to be summoned as additional accused.

4. Learned counsel further submits that trial Court has erred in mentioning in its order that satisfaction of the Court while examining an application under section 319 Cr.P.C. should be such that it may lead to conviction. Such observation may be incorrect, but it does not lead to any different view so far as this Court is concerned.

5. In view of the above, I do not find any merit in this revision petition and the same is accordingly dismissed.

July 27, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No