

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

CRR-25-2018(O&M)

Date of decision:-12.2.2018

Devender and others

...Petitioners

Versus

State of Haryana and another

...Respondents

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

Present: Mr.Vikram Singh, Advocate
for the petitioners.

H.S. MADAAN, J.

This revision petition is directed against the order dated 25.9.2017 passed by the Court of learned Additional Sessions Judge, Palwal vide which he had summoned petitioners – Devender, aged 54 years, Bhushan, aged 27 years and Guddu @ Parmod aged 29 years as additional accused under Section 319 Cr.P.C. to face trial along with the accused already facing trial.

Such petitioners – Devender, Bhushan and Guddu @ Parmod pray that the revision petition be accepted and the impugned order as well as subsequent proceedings be set aside.

Briefly stated, facts of the case as per prosecution story are

that FIR in question was recorded on the basis of statement of complainant Rajender son of Bharat Singh of Jat community, resident of Radha Colony near ITI Palwal, aged about 50 years, which he made to the police stating therein that he is an agriculturist by avocation; that on 8.10.2014 his son Arun told him that he had stopped Bhushan from driving at a very fast speed, at which Bhushan and his friend Sandeep @ Padda had threatened to kill him, as such the complainant and his wife Smt.Anita went to the house of Bhushan for lodging protest; that time was about 9:00 p.m.; that Maya mother of Bhushan met them and they told her about the incident and then returned home; that at about 10:30 p.m., Devender and his son Bhushan, Guddu, residents of Radha Colony along with Sandeep @ Gadda, resident of New Colony, Palwal besides 4-5 other persons came to the house of complainant in two cars i.e. *Ritz* having registration No.HR-30K-6868 and *i 20* having registration No.HR-30K-1001; that the complainant and his wife Anita came out of the house and bolted the house from outside; that they pleaded with the assailants not to indulge in any criminal act but they did not agree and asked them to bring out their son Arun; that on their refusal, Bhushan fired a shot at Anita with intention to kill, which hit in her abdomen; that Sandeep @ Padda fired a shot at complainant; that the complainant could avoid himself being hit very narrowly; that Devender along with his son Guddu and 4-5 other persons gave fist and leg blows to the complainant and his wife; that the complainant raised alarm, which attracted his brother Shekhar and neighbour Ram Kishan, who rescued him and his wife; that thereafter the assailants ran away in their respective vehicles. Smt.Anita – injured was

taken to Om Sperio Hospital from where she was referred to Fortis Hospital, Faridabad.

After registration of the FIR, the matter was investigated and on completion of investigation and other formalities, challan against accused Sandeep @ Padma alone was filed. During the trial, the prosecution had moved an application under Section 319 Cr.P.C. for summoning of Devender, Bhushan and Guddu @ Parmod as additional accused, which was allowed.

Being aggrieved, Devender, Bhushan and Guddu @ Parmod knocked at the door of this Court by way of filing the present petition.

I have heard learned counsel for the petitioners besides going through the record.

A perusal of the impugned order goes to show that it has been noticed by learned Additional Sessions Judge, Palwal that the persons sought to be summoned as additional accused were named in the FIR and in the statements recorded in the Court, specific parts have been attributed to them. It has further been observed that the evidence as surfaced from the deposition of PW2 and considered in light of other circumstances of the police report was more than sufficient, than just a prima facie case for framing of the charge, to summon the additional accused to face trial with the present accused for the offences under Sections 323, 307, 506 read with Section 34 IPC.

The contentions raised by counsel for the petitioners do not have any merit. As regards the authority referred to by him i.e. **Sarabjit Singh & Anr. Versus State of Punjab and Anr., 2009(3)**

R.C.R.(Criminal)388 by the Apex Court wherein it was observed that a person should not be summoned to face trial if prima facie case was made out against him and a person should be summoned only when the Court finds that evidence on record is such which would reasonably lead to conviction of person ought to be summoned, vide the impugned order the trial Court has observed that the evidence as surfaced from the deposition of PW2 when considered in light of other circumstances of the police report was more than sufficient, than just a prima facie case for framing the charge. Though it has not been specifically observed that the evidence on record is such which would reasonably lead to conviction of the persons sought to be summoned but then there is always subjective satisfaction of the Court passing the order.

In view of the above discussion, no infirmity or illegality in the impugned order is found to be there, which might have warranted interference by this Court. Resultantly, the revision petition stands dismissed.

12.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No