

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

CRR-2612 of 2018
Date of Decision:13.08.2018

Umang

....Petitioner

Versus

Hari Kishan & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Jai Vir Yadav, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition, the petitioner has assailed order of the trial Court dated 10.07.2018, whereby his application under Section 319 Cr.P.C for summoning the private respondents as additional accused was dismissed.

Briefly, the petitioner lodged FIR against nine persons including the private respondents on the allegations that after changing the pipeline in the field on 03.10.2017, when he reached near the Panchayat house while returning home from the fields, Sube Singh, Abhey Singh, Om Parkash and Daya Ram, all sons of Chander Singh, Hari Kishan son of Abhey Singh, Mukesh wife of Abhey Singh, Birmati wife of Daya Ram, Sumitra wife of Sube Singh and Jagwanti wife of Om Parkash, caused injuries to him with their respective lathis and rods.

On investigation, private respondents were found innocent. Therefore, they were placed in Column No.2 in report under Section 173(2) Cr.P. C.

During trial, complainant as PW-5 testifying the complicity of the private respondents, who were declared innocent by the police, immediately

moved application under Section 319 Cr.P.C for summoning them as additional accused.

Learned counsel for the petitioner *inter alia* contends that the impugned order is illegal being passed without appreciating that the petitioner as PW-5 had deposed as to the specific role of the private respondents. At the time of summoning of additional accused, the trial Court was not required to meticulously examine the evidence brought before it or to adjudge as to whether the additional accused would be acquitted or convicted. Trial Court was only required to see as to whether there existed any prima facie case for summoning the private respondents as additional accused. No reason has been assigned by the investigating officer while declaring the private respondents as innocent.

Having considered the submissions made by learned counsel for the petitioner, this Court is not inclined to differ with the finding recorded in impugned order for the reason that the entire story narrated by the complainant to the police while lodging FIR seems to be a master mind attempt to falsely implicate the entire family members of Chander Singh and Sube Singh intentionally. Complicity of four sons of Chander Singh, namely, Sube Singh, Abhey Singh, Daya Ram and Om Parkash and their wives, namely, Mukesh, Birmati, Sumitra and Jagwanti, was shown deliberately, attributing specific role to them. The story projected by the petitioner before the police is unbelievable on account of the fact that no person carries Rs.10,000/- while going for irrigating his fields.

Perusal of the impugned order shows that the petitioner, during his cross-examination, categorically admitted about lodging of several FIRs by the accused party against him prior to the registration of the present case.

He also admitted that in one case, he has been convicted under Section 8 of the Protection of Children from Sexual Offences Act, 2012, pursuant to FIR No.25, dated 13.03.2015 by the Additional Sessions Judge, Rewari. That apart, the petitioner also admitted that he is facing trial in FIR No.23, registered under Sections 323/325/452/506/379 IPC, at Police Station Jatusana, for causing injuries to respondent Sube Singh and that there is property dispute between him and complainant party.

Considering this aspect of the matter, it is evident on record that the petitioner with the sole motive to take revenge, introduced a concocted version before the police and got lodged FIR against private respondents and their family members.

No new evidence has been brought by the petitioner on record to show complicity of the private respondents against the evidence already given to the police at the time of lodging of FIR. Therefore, bare statement of the petitioner without being supported by any evidence or new fact on the record, his prayer for summoning the private respondents as additional accused, has rightly been rejected.

The proposition of law is well settled that powers under Section 319 Cr.P.C are exercised cautiously and not in routine. It is a discretionary power of the Court.

I have gone through the impugned order and find no illegality in the same.

In view of the discussion made above, this petition fails and is dismissed.

13.08.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No