

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

(i) CRR No.3469 of 2018 (O&M)

Rajender
...Petitioner

VERSUS

State of Haryana and another
...Respondents

(ii) CRR No.3657 of 2018 (O&M)

Virpal
...Petitioner

VERSUS

State of Haryana and another
...Respondents

(iii) CRR No.3768 of 2018 (O&M)

Raj Kumar
...Petitioner

VERSUS

State of Haryana
...Respondent

Date of Decision: December 03, 2018

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Preetinder Singh Ahluwalia, Advocate
for the petitioners (in CRRs No.3469 and 3657 of 2018).

Mr.Rakesh Dhiman, Advocate
for the petitioner (in CRR No.3768 of 2018).

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

Mr.Manok K. Tanwar, Advocate
for respondent No.2 (in CRRs No.3469 and 3657 of 2018).

INDERJIT SINGH, J.

This order shall dispose of above-mentioned three connected revisions as these have arisen from same order in same FIR.

The present revision petitions have been filed by the petitioners against respondents State of Haryana and Abhimanyu, challenging the order dated 03.10.2018 passed by learned Addl. Sessions Judge, Jhajjar, vide which application under Section 319 Cr.P.C. filed by the complainant-respondent No.2 was allowed and petitioners were summoned as additional accused to face trial.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that during the pendency of the trial, an application was filed by complainant Abhimanyu under Section 319 Cr.P.C. for summoning Virpal, Rajender and Raj Kumar as additional accused. When Abhimanyu appeared in the witness box, he described the role of the petitioners. The perusal of the record shows that petitioners Virpal and Raj Kumar are named in the FIR and they are stated to be armed with *lathi* and *jelly* respectively and petitioner Rajender was not named in the FIR. Otherwise, Rajender is stated to be empty handed and role attributed to him is that he caught hold injured Rajender from neck.

In the present case, in the FIR, petitioner Rajender has not been named. When, supplementary statement of Abhimanyu was recorded, even then, he was not named. Then statement of Himanshu was recorded but

again name of Rajender was not mentioned. Later on, on 10.03.2017, statement of another injured namely Rajender was recorded, where, first time, name of petitioner Rajender had come, wherein, it is stated that he had caught hold the injured witness from the neck and other accused caused injuries.

In the present case, fourteen accused are facing trial and three additional accused have been summoned. It has been brought to the notice of this Court that eight accused were exonerated by the police. Learned counsel for the petitioners also brought it to the notice of this Court that as per post-mortem report, the deceased suffered one injury, one injury has been suffered by Himanshu, two injuries by Abhimanyu and two injuries have been suffered by Rajender.

I find that only statement of complainant Abhimanyu has been recorded and he has earlier not named petitioner Rajender in the FIR nor in his supplementary statement. Now, he is deposing qua petitioner Rajender, which is a material improvement.

Keeping in view the above facts and number of injuries, number of accused and the fact that challan has been presented against so many persons for causing six injuries and keeping in view the evidence on record, I find that it does not appear to the Court that petitioner Rajender is involved in the commission of the offence or he should be tried along with other accused already challaned. Therefore, the impugned order dated 03.10.2018 passed by learned Addl. Sessions Judge, Jhajjar, summoning petitioner Rajender is set aside qua him only.

As regarding other petitioners Virpal and Raj Kumar, I find that

they were armed with weapons and named in the FIR. They were also

named by the complainant in his statement. Active role has been attributed to them. The mere fact that injury attributed to Raj Kumar is not corroborated as he was stated to be armed with *jelly* and lacerated wound has been shown instead of sharp-edged weapon wound, in no way, it will show that Raj Kumar was not involved in the commission of the offence. At this stage, the contents of the FIR as well as statement of complainant, who is injured eye witness to the occurrence, it appears to the Court that petitioners Virpal and Raj Kumar are involved in the commission of the offence and they should be tried along with other accused already challaned. Therefore, impugned order dated 03.10.2018 passed by learned Addl. Sessions Judge, Jhajjar, summoning petitioner Virpal and Raj Kumar, is correct, as per evidence and does not require any interference from this Court.

Resultantly, CRR No.3469 of 2018 filed by petitioner Rajender stands allowed, whereas CRRs No.3657 and 3768 of 2018 filed by petitioners Virpal and Raj Kumar, respectively, stand dismissed.

December 03, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No