

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3745 of 2018

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Date of decision:14.11.2018

Ramu

...Petitioner

v.

State of Haryana

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sudhir Hooda, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 8.10.2018 passed by learned Sessions Judge, Rohtak, whereby the application under Section 319 Cr.P.C. filed by the complainant-applicant for summoning Ramu son of Mahabir and Bajrang son of Kirani, as additional accused to face trial along with co-accused Sandeep son of Rajbir, Sonu son of Jasbir and Sandeep son of Satbir, has been allowed and Ramu and Bajrang have been summoned to face trial for the offences punishable under Sections 302, 201 and 120-B read with Section 34 of IPC.

I have heard learned counsel for the revision petitioner and have gone through the record.

A perusal of the record shows that challan was presented

against Sandeep son of Rajbir, Sonu son of Jasbir and Sandeep son of Satbir for the offences under Sections 302 and 201 read with Section 34 IPC. After the statement of complainant Smt. Rajesh, she filed application under Section 319 Cr.P.C. for summoning Ramu and Bajrang as additional accused to face trial for the offences under Sections 302, 201 and 120-B IPC read with Section 34 IPC.

The brief facts of the case as mentioned in the impugned order dated 8.10.2018 passed by the learned Sessions Judge, Rohtak, are as under:-

“Brief facts, necessary for disposal of the present application are that on 23.08.2017 at about 4.30 p.m., Ramu son of Mahabir, Bajrang son of Kirani (sought to be summoned as accused) along with Bachhi alias Sandeep son of Raje and Sonu son of Jasbir took away Naveen (since deceased) from his house for strolling, but Naveen did not return to the house and when his mother Smt. Rajesh inquired about the whereabouts of her deceased son from all the four namely, Ramu son of Mahabir, Bajrang son of Kishne, Bachhi son of Raje and Sonu son of Jasbir, all of them answered on different lines. Smt. Rajesh moved application on 1.9.2017 requesting for making inquiries regarding his missing son from all the four namely Ramu son of Mahabir, Bajrang son of Kirani, Bachhi son of Raje and Sonu son of Jasbir and in the application she gave description regarding the body of her son.

3. On 9.11.2017, Krishan uncle of the deceased moved application before the police when he saw the skeleton of some person near the canal in the area of Village Bhaulat and after seeing the same he suspected that it might be of his deceased nephew Naveen and thus in the application he prayed for postmortem examination of the deceased as well as for DNA test.

4. Police machinery swung into action and on 14.11.2017 accused Sonu son of Jasbir alias Jassu confessed guilt regarding his involvement as well as involvement of accused Sandeep alias Bachhi son of Rajbir and Sandeep son of Satbir for committing the murder of Naveen before said Krishan son of Sultan.

5. Thereafter accused Sonu son of Jasbir was produced before the police and after due inquiries he was arrested. On the basis of his disclosure statement, accused Sandeep son of Rajbir and other accused Sandeep son of Satbir were arrested and during interrogation they suffered disclosure statements. Accused Sandeep son of Rajbir got recovered the clothes of the deceased in pursuant to his disclosure statement. Accused Sonu got recovered the hawai chappal of the deceased and accused Sandeep son of Satbir got recovered the motor cycle along with RC, used in the commission of crime. Statements of the witnesses were recorded and after completion of all other

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necessary formalities of investigation, report under Section 173 Cr.P.C. was presented against the accused already facing trial whereas Ramu son of Mahabir and Bajrang son of Kirani (sought to be summoned) were found innocent.”

The learned Sessions Judge, Rohtak, vide impugned order dated 8.10.2018 accepted the application and summoned Ramu and Bajrang as accused. I have gone through the impugned order and record. The impugned order is as per evidence and law and, in no way, the findings can be held as perverse or against evidence or law. There is nothing on record to show that any illegality has been committed by the learned Sessions Judge while passing the impugned order. Both these accused Ramu and Bajrang have been named in the first complaint Ex.PA given by the complainant on 1.9.2017, on the basis of which FIR for the offence under Section 365 IPC was lodged. It has been mentioned that Naveen son of the complainant had gone with Ramu, Bajrang, Bachhi and Sonu. The names of Ramu and Bajrang have been shown in column No.2. The learned Sessions Judge has held that the investigating agency opted the policy of pick and choose. The police authorities have not given any cogent and plausible explanation as to on what ground their names have been kept in column No.2. During the statement, the complainant stated that Naveen had gone with them. The skeleton of the body of Naveen was found after about two months. To accept the application, it should appear to the Court that these persons are also involved in the commission of the offence and they should be tried along with the accused already facing the trial. The standard of

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proof requires for summoning the accused is somewhat of more than *prima facie* case.

In the present case, it appears to the Court that these persons are also involved in the commission of the offence. Last seen evidence is there on the record as per the statement of the complainant. Their names have also been mentioned in the first complaint.

Keeping in view the above facts, I find no merit in this criminal revision petition and the same is dismissed.

November 14, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No