

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.43353 of 2018
and
Criminal Revision No.3971 of 2018

.....

Date of decision:6.12.2018

Madan Lal

...Petitioner

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Nitin Thatai, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.43353 of 2018:

For the reasons mentioned in the criminal miscellaneous application, the delay of 113 days in filing the criminal revision petition is condoned.

The criminal miscellaneous application is allowed.

Cr. Revision No.3971 of 2018:

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 15.5.2018 (Annexure-P.1) passed by learned Sessions Judge, Sirsa, vide which the application filed under Section 193 Cr.P.C. has been dismissed and the impugned order dated 5.9.2018 (Annexure-P.2) passed by same Court, vide which another

application filed under Section 319 Cr.P.C. to summon Subhash and Parveen as additional accused has been dismissed.

After the presentation of challan against accused Rajender Singh and others, an application was filed under Section 193 Cr.P.C. to summon Subhash and Parveen (respondents No.2 and 3 herein) as accused in the case. The learned Sessions Judge, Sirsa, vide order dated 15.5.2018 dismissed the application. The charges were framed and the statement of the complainant was recorded. Then another application under Section 319 Cr.P.C. was filed by the prosecution with the prayer that Subhash and Parveen may be summoned to face the trial, which was also dismissed on 5.9.2018.

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

From the record, I find that as per the FIR, the complainant along with Naveen Kumar was returning home on the tractor. The tractor was got stopped by Rajender from complainant's son Naveen Kumar by giving signal. When they were talking, Rajender fired four shots at Naveen Kumar. It is also in the FIR that Subhash and Parveen, who were standing nearby, were raising 'Lalkara' that on that day Naveen should not be spared. The occurrence took place on 21.5.2017 at about 9.30 p.m. and the FIR was got recorded on 23.5.2017 at 12.50 p.m. There is delay in recording the FIR which means there was sufficient time in between the occurrence and recording of the FIR.

The learned counsel for the petitioner stated that the statement

of the complainant was recorded by the Police on 22.5.2017. If that is the case, then the FIR should have been registered on that very time while recording the statement of the complainant. Secondly, both these persons have not taken any active participation in the commission of offence. They were not armed with any weapon. They had not caused any injury to anybody. Only 'Lalkara' is attributed to them. Furthermore, both these private respondents have been found innocent during investigation and the learned trial Court has already dismissed the application filed under Section 193 Cr.P.C. Furthermore, a perusal of the FIR shows that Rajender got stopped the tractor from Naveen Kumar by giving the signal and while talking fired four shots at him from the country made pistol which hit on arm, neck and shoulder of Naveen Kumar. It is nowhere in the FIR that Subhash and Parveen raised the 'Lalkara' first to fire shots, on the basis of which Rajender fired shots. Rather, from the FIR, it looks that when they were talking, Rajender fired the shots. Though, there is mentioned that Subhash and Parveen, who were standing nearby, were raising 'Lalkara' that on that day Naveen should not be spared.

Keeping in view the orders passed by the learned trial Court, I find that no illegality has been committed by the Court while dismissing the applications under Section 193 Cr.P.C. as well as Section 319 Cr.P.C. The orders passed by the Court below are correct as per evidence and law. It did not appear to the Court that the private respondents to whom the prosecution wants to summon as additional accused were involved in the commission of the offence or they should be tried along with the main

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accused.

Therefore, finding no merit in the present criminal revision petition, the same is dismissed.

December 6, 2018.

(Inderjit Singh)
Judge

hsp

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