

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

CRR-782-2018(O&M)

Date of decision:-30.4.2018

Mandeep Kaur and others

...Petitioners

Versus

State of Punjab and another

...Respondents

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

Present: Mr.M.S. Basra, Advocate
for the petitioners.

H.S. MADAAN, J.

This revision petition is directed against the order dated 1.9.2017 passed by the Court of learned Additional Sessions Judge, Gurdaspur vide which he had summoned petitioners, Mandeep Kaur, Hardev Singh, Sandeep Kaur, Palwinder Kaur, Harjinder Singh and Pawandeep Kaur as additional accused under Section 319 Cr.P.C. to face trial along with the accused already facing trial.

Such petitioners pray that the revision petition be accepted and the impugned order be set aside.

Briefly stated, facts of the case as per prosecution story are that FIR No.25 dated 12.5.2015 for the offences under Sections

326/323/324/148/149 IPC was registered at Police Station Kalanaur, District Gurdaspur on the basis of statement of complainant Narain Singh son of Salvinder Singh of Jat community, resident of Bhikhariwal, aged about 26 years. *Inter alia*, in the statement he stated that on 10.5.2015, he along with his father Salvinder Singh and his mother Mandeep Kaur went to Tung Palace at Kalanaur to attend Shagun ceremony of his friend Sonu; when he took out his Indica car from Tung Palace, then his wife's uncle's son Arvinderpal Singh, his uncle's son Dilraj Singh and Amritpal Singh were standing outside; they stopped the car of complainant and hurled abuses; when the complainant reached village Bhikhariwal, then Kiranpal Singh and Arvinderpal Singh met him and started quarrelling with him, in the process turban of Sh.Salwinder Singh, father of complainant fell down; the complainant went to Police Post of village Bhikhariwal and submitted a complaint there; thereafter, they went to their village; after some time such complainant and his father went to village Bhikhariwal Mandi and parked his car there; in the meantime, Tony son of Davinder Singh, Arvinder, Satnam Singh and Sukha gave blows of generator handle to complainant with an intention to kill him; Deema and his son Arvinder besides Jasbir Kaur, Ex-Sarpanch caught hold of Salvinder Singh from his hair and pushed him on the ground giving blows on chest; the officials present at the police post came to rescue of complainant and his father; injured were taken to Civil Hospital, Kalanaur where they were medico-legally examined. Then they were got admitted to Guru Nanak Dev Hospital, Amritsar at 10:00 p.m. where they were medically treated.

There is counter version of the incident recorded vide DDR

No.5 dated 14.5.2015 under Sections 326, 324, 323, 148 and 149 IPC. In terms of such cross version, on 10.5.2015 while Davinder Singh (PW1) was present in his house then Deba came and told him that Malwinder Singh, Narain Singh and Mandeep Kaur were abusing his grandson Arvinderpal Singh besides giving beatings; Davinder Singh accordingly went to the spot, which was in front of Dhaba and found that his grandson Arvinderpal Singh and Kiranpal Singh standing there; Arvinderpal Singh told Davinder Singh that Narain Singh, Malwinder Singh and Mandeep Kaur had abused him besides giving beatings to him, as such, Davinder Singh and Arvinderpal Singh went to Police Post Bhikhariwal and informed the police in that regard; that while they were returning to their house and had reached near Grain Market, there Narain Singh son of Malwinder Singh, Malwinder Singh son of Ajit Singh, Mandeep Kaur wife of Narain Singh, Simratpal Singh son of Sukhwinder Singh, Hardev son of Chanan Singh, Ajay pal Singh son of Hardev Singh, Palwinder Kaur wife of Hardev Singh, Sandeep Kaur wife of Ajaypal, all residents of village Bhikhariwal along with Harjinder Singh, resident of Batala and Pawandeep Kaur wife of Harjinder were standing and they abused the complainant and his grandson Arvinderpal Singh. Malwinder Singh raised a lalkara to catch hold of complainant and his grandson and not spare them on that day, as such, Narain Singh gave a datar blow to Davinder Singh hitting him on right leg, Malwinder Singh caught hold of Davinder Singh from hair and threw him on the ground and in the process turban of Davinder Singh fell down; Mandeep Kaur caught hold of Arvinderpal Singh from his hair and threw him on the ground. Ajaypal Singh gave a

datar blow on the right elbow of Arvinderpal Singh; Sandeep Kaur gave a brick blow on the backside of the head of Arvinderpal Singh; Simratpal Singh gave a danda blow on the left hand thumb of Arvinderpal Singh; Hardev Singh gave fist blow below left eye of Arvinderpal Singh; that while Arvinderpal Singh fell down on the ground, Palwinder Kaur gave kick blows on his private parts; the complainant and Arvinderpal Singh raised an alarm, which attracted people who intervened and rescued the complainant and his grandson from the assailants.

During the trial, statement of PW1 Davinder Singh was recorded and thereafter an application under Section 319 Cr.P.C. was moved to summon the petitioners as additional accused, which was allowed by the trial Court. The relevant part of the impugned order in that regard is as under:

By the aforesaid evidence of complainant PW Davinder Singh there are specific attribution to cause injuries at the person of Davinder Singh and Arvinderpal Singh with the common intention of aforesaid Mandeep Kaur etc. apart from Narain Singh etc. who are already facing the trial. The allegations against that aforesaid Mandeep Kaur etc. have been found more than prima facie case against them. In such a situation the law is well settled as held in the citations as follows:-

(I) *RCR Criminal 2014(2) 915 (SC) titled as Babubhai Bhimabhai Bokhiria and Others Vs. State of Gujarat and Others,* wherein it is held that for summoning a

person as additional accused under section 319 of Cr.P.C., the test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge.

(ii) **RCR Criminal 2015(3) 764 (P&H) titled as Chander and another Vs. State of Haryana;** wherein it is held that the provisions of section 319 Cr.P.C., are vesting an extraordinary power apart from discretionary power which cannot be exercised just on the asking of the prosecution or the complainant.

(iii) **2014 (1) RCR (Criminal) 623 (SC) titled as Hardeep Singh Vs. State of Punjab and others** wherein it is held that to consider the evidence for an application under section 319 Cr.P.C., that has to be broadly understood and has not literally.

Thus, in view of the aforesaid settled principle of law and the observations as referred above and finding more than prima facie case against that Mandeep Kaur etc. i.e. (i) Mandeep Kaur wife of Narain Singh, (ii) Simratpal Singh son of Sukhwinder Singh, (iii) Palwinder Kaur wife of Hardev Singh; (iv) Hardev Singh son of Chanan Singh; (v) Sanjiv Kaur wife of Ajaypal Singh residents of village Bhikhariwal, Tehsil and District Gurdaspur; (vi) Harjinder Singh son of Dharam Singh, resident of Saprai Kothi Tehsil and District Gurdaspur and (vii) Pawandeep Kaur wife of Harjinder Singh resident of Saprai Kothi, Batala, District Gurdaspur.

I find that there is no merit in the revision petition. The same

has been filed belatedly by 90 days. No cogent and convincing reason has been given for such delay. As such, I do not find sufficient reasons to condone the delay in filing of the revision petition and therefore, it is doomed for failure being time barred. However, on merits also, the petitioners do not have any case.

I find that the order passed by the trial Court is well reasoned one not suffering from any illegality or infirmity. The trial Court is not shown to have exercised the jurisdiction in an arbitrary or perverse manner, which might have called for interference by this Court.

Finding no merit in the petition, the same stands dismissed.

30.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No