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

**CRR-163-2019 (O&M)
Date of Decision: 21.01.2019**

Kewal Singh @ Raju**.... Petitioner**

Versus

State of Punjab & another**.... Respondents****CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. P.S.Hundal, Senior Advocate with
Mr. Dinesh Trehan, Advocate
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition, the petitioner has laid challenge to order dated 22.10.2018 of the trial Court, whereby he has been summoned under Section 319 Cr.P.C. as additional accused.

Brief facts of the case are that in the evening of 26.07.2015, the complainant along with his brother Sukhjinder Singh and nephew Manpreet Singh alias Sonu had gone to the market to fetch some household articles. However, in the market, Jasbir Singh alias Golu met them and they started talking with him. In the meantime, Manpreet Singh alias Sonu went to Basra General Store for purchasing household articles and when he was a little before the said general store, four persons came out of a car and two on a motorcycle, rushed towards deceased-Manpreet Singh. Co-accused Maninder Singh raised *lalkara*, whereupon the petitioner caught hold of the arms of the deceased and another co-accused Harinder Singh alias Raja gave three *Kirch* blows to Manpreet Singh with intention to kill him. Two blows hit near left side of his heart and one on his back. Resultantly

Manpreet Singh fell down on the ground. He was taken to the Civil Hospital, Batala where the doctors declared him 'brought dead'.

During investigation, the police filed final report under Section 173 Cr.P.C. only against Harinder Singh alias Raja and the rest of the persons i.e. the petitioner and one Maninder Singh were put in column No. 2, as innocent.

After framing of charges against the main accused Harinder Singh alias Raja, the complainant stepped into witness box as PW-1 and deposed that the petitioner-Kewal Singh @ Raju and Maninder Singh had also actively participated in the murder of his nephew Manpreet Singh.

The prosecution thereafter, moved an application under Section 319 Cr.P.C. for summoning the petitioner and co-accused Maninder Singh, as additional accused, which after hearing both the sides was allowed by trial Court vide the impugned order.

Learned counsel for the petitioner contends that before filing the final report under Section 173 Cr.P.C., investigation was done by two Senior Superintendents of Police. Thereafter, only the petitioner was found innocent. Consequently, their names were placed in Column No. 2 in the final report under Section 173 of Cr.P.C. Petitioner has falsely been implicated with ill motive by the complainant, because father of the complainant and grandfather of the deceased Manpreet Singh were booked and tried in a murder case around five decades ago in which grandfather of the petitioner had appeared as PW-8. In the said trial, both were convicted. No fresh evidence, over and above the facts narrated while recording the FIR, was brought on record during trial. Therefore, the impugned order is liable to be quashed. In support of his contention

learned counsel for the petitioner placed reliance upon ***Laxmi Versus State of Haryana and another, 2018 (1) RCR (Criminal) 987*** and ***Bakhshish Singh Sarpanch Versus State of Punjab and another, 2018 (4) RCR (Criminal) 164***.

Having given thoughtful consideration to the submission of learned counsel for the petitioner, this Court finds this petition completely devoid of merits for the reasons to follow:-

1. Undisputedly, the complainant while appearing as PW-1, specifically named the petitioner as an active participant in the murder of his nephew Manpreet Singh. The complainant was cross-examined by the defence counsel of the co-accused, who are already facing trial, but nothing favourable could be elicited from the mouth of the complainant in their favour or in favour of the petitioner. The veracity of the statement of the complainant has already been checked by cross-examining him at length. Therefore, no doubt remains about the complicity of the petitioner at this stage.
2. For ready reference relevant portion of the impugned order is reproduced herein below:-

“4. xxxx xxxx xxxx xxxx and
now the complainant Baljinder Singh appeared in the court as PW-1 and made specific allegations against them. Even he was cross-examined but no fruitful answer in favour of accused came out from mouth of complainant. Rather, he repeatedly made specific allegations against both these accused Maninder Singh and Kewal Singh @ Raju and specifically stated that accused Maninder Singh raised Lalkara that Manpreet Singh should be taught a lesson for quarreling with them and accused Kewal Singh alias Raju caught hold the arms of Manpreet Singh from the backside and accused Harinder Singh alias Raja gave

three kirch blows to Manpreet Singh with an intention to kill him. Two blows of kirch hit near the heart of Manpreet Singh towards the left side of chest and one blow of kirch hit on back of Manpreet Singh and same was given by Harinder Singh

xxxx xxxx

xxxx xxxx

6. xxxx xxxx xxxx xxxx The complainant has specifically named both these accused and there is sufficient material against these persons to summon them in the present case as co-accused. So, in the interest of justice in the considered opinion of this court both these accused are required to be summoned to face the proceedings in the present case. xxxx xxxx

xxxx xxxx”

The investigation conducted by two Senior Superintendents of Police has lost its significance after testing the veracity of the complainant's statement by cross-examining him.

The facts and circumstances of the authorities referred above are completely distinguishable from the facts and circumstances of the present case. Therefore, no benefit of the same can be given to the petitioner.

Dismissed.

21st January, 2019
shabha

[RAMENDRA JAIN]
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No