

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-17962-2017

Date of decision : April 02, 2019

Ranjit Kaur @ Rani

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashwani Bakshi, Advocate
 for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

None for respondent No.2

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing the order dated 27.1.2015 passed by the Additional Chief Judicial Magistrate, Patiala vide which while allowing the application under Section 319 Cr.P.C. in FIR No.25 dated 14.1.2009, the petitioner was summoned as an additional accused, alongwith Sukhwinder Singh, Jaggi @ Harinder Singh and Pawan Kaur.

On 22.5.2017 while issuing notice of motion, the further proceedings qua the petitioner were stayed.

Brief facts of the case are that the FIR was registered at the statement of one Harjit Singh son of Harjinder Singh that on 13.1.2009 at about 7.00/7.30 p.m. he was going to his fields and when he reached near the house of one Harpreet Singh @ Happy, who was standing outside and started hurling abuses on him. Harpreet Singh @ Happy was having a wooden stick in his right hand and threw it towards the complainant which hit him on his right eye-brow.

In the meantime, Napinder Singh son of Bachittar Singh came there and gave fist blow on the left side of his face, as a result of which blood started coming out of his mouth. Thereafter, Sukhwinder Singh, resident of Ghanour and Jaggi, resident of Manter Sahib, who were the sons-in-law of Bachittar Singh, caught hold of the complainant by hair and started giving fist blows. When he raised a voice, Ranjit Kaur @ Renu, i.e. the petitioner, came and gave a stick blow on the left foot and Jaggi gave fist blow on his face. Pawan Kaur was raising lalkara that the complainant should not be left alive today. Hearing his voice, complainant-Navjot Kaur, and one Karam Singh reached at the spot and rescued him.

During the investigation, the petitioner was found innocent and his name was kept in column No.2 and no challan was presented against the petitioner.

Thereafter, the charges were framed against the other accused persons and the complainant-Harjit Singh appeared as PW1 and reiterated the version as given in the statement under Section 161 Cr.P.C. In the statement qua the petitioner-Ranjit Kaur @ Renu @ Randeep Kaur, it was stated that she was having a wooden stick in her hand and she gave a blow on his left foot.

Thereafter, the Public Prosecutor moved an application under Section 319 Cr.P.C. for summoning the petitioner, alongwith Sukhwinder Singh, Jaggi @ Harinder Singh and Pawan Kaur as additional accused. The trial Court vide impugned order dated 27.1.2015 allowed the application. The operative part of the order reads as under :-

“Section 319 of Cr.P.C. empowers the Court to proceed against a person/persons appearing to be guilty of

the offence. The present case was registered on the basis of statement of complainant Harjit Singh and during the course of prosecution evidence complainant Harjit Singh has appeared before the Court and he has specifically deposed that on 13.1.2009 at about 7.00/7.30 p.m. he was going from his house towards his fields for a walk and when he reached near house of Harpeet Singh alias Happy then Harpreet Singh was who was having Danda in his hand started abusing him and also threatened him and gave Danda blow and in the meantime Rupinder Singh s/o Bachhitar Singh also came there and gave a fist blow and then Sukhwinder Singh and Jaggi alias Harinder Singh also came at the spot and they caught hold his hair and started giving him fist blows. Complainant further stated that Ranjit Kaur alias Renu @ Randeep Kaur have a Soti blow on his left foot and Jaggi also gave a fist blow on his face and at the same time Pawan Kaur came at the spot and started raising lalkara. Thus, complainant has specifically mentioned the names of Sukhwinder Singh, Jaggi alias Harinder Singh, Ranjit Kaur alias Rani and Pawan Kaur in his statement recorded in chief. Moreover, the names of these persons also figure in the FIR registered by the police. It is also pertinent to mention there that the names of these persons were also stated by the complainant in his statement recorded before the police under Section 161 Cr.P.C. Thus, after going through the testimony of complainant Harjit Singh (PW1), it is quite evident that accused Sukhwinder Singh, Jaggi alias Harinder Singh, Ranjit Kaur alias Rani and Pawan Kaur had actively participated in the commission of offence of beating the complainant and inflicting injuries on him. As such, this Court is satisfied that evidence adduced by the prosecution makes out for compelling circumstances from where it appears that accused-

Sukhwinder Singh, Jaggi alias Harinder Singh, Ranjit Kaur alias Rani and Pawan Kaur have committed offences punishable under Sections 323 read with Section 34, 324 read with Section 34 and 506 read with Section 34 IPC. Accordingly, the application under Section 319 Cr.P.C. filed by the prosecution is allowed and accused Sukhwinder Singh, Jaggi alias Harinder Singh, Ranjit Kaur alias Rani and Pawan Kaur are ordered to be summoned to face trial in this case for offences under Sections 323 read with Section 34, 324 read with Section 34 and 506 read with Section 34 IPC. Application disposed off accordingly.”

The present petition has been filed by the petitioner challenging the aforesaid order.

Counsel for the petitioner has submitted that on the date of the incident, the marriage of the petitioner was fixed and on 13.1.2009, there was a Sangeet ceremony in the house of the petitioner at the same time when the alleged incident taken place. Counsel for the petitioner has relied upon the invitation card (Annexure P-2), according to which a Sangeet ceremony was scheduled to be held at 6.00 p.m. on 13.1.2009.

Counsel for the petitioner further submits that the FIR was registered after a delay of 23 hours on the next day, i.e. 14.1.2009, the day when the marriage of the petitioner was solemnized with Parvinder Singh and considering the aforesaid fact, the police found the petitioner to be innocent and no challan was presented.

Counsel for the petitioner further submitted that as per MLR of the petitioner, injury No.5 is an abrasion on the left foot and the other injuries were found to be simple in nature.

Counsel for the petitioner next argued that, in fact, the dispute with the complainant with one Harpreet Singh who is neighbour of the father of the petitioner and the petitioner has been falsely named in the FIR.

Counsel for the petitioner has further relied upon the judgment of Hon'ble the Supreme Court in **Hardeep Singh Vs. State of Punjab and others**, 2014(1) RCR (Criminal) 623 and **Brijendra Singh and others Vs. State of Rajasthan**, 2017(3) RCR (Criminal) 374, wherein it has been held that though the Court has wide power under Section 319 Cr.P.C. to proceed against a person guilty and offence, however, such power are to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is further held that such power is not to be exercised heavily because the Court is of opinion that some other person may also be guilty of committing that offence. It is further held that only where cogent evidence led by the complainant has come against the person, such powers should be exercised and not in a casual and cavalier manner.

Counsel for the petitioner has further submitted that after her marriage on 13.1.2009, the petitioner has left abroad in February, 2009 and till date, she has not returned back and in intervening period, all the other accused, including three other accused, who are summoned under Section 319 Cr.P.C. and later on, appeared before the trial Court are facing the trial which is at the fag end and after concluding the prosecution evidence, the statement under Section 313 Cr.P.C. is recorded by the trial Court.

Learned State counsel on instructions from ASI Surjan Singh could not disputed the fact that during investigation the petitioner was found innocent and only, thereafter, she was summoned under Section 319 Cr.P.C.

It is further stated by the learned State counsel, on instructions, that during the investigation on verification from the villagers at the spot, the petitioner was not found to be present at the spot where the incident had taken place and it is also not disputed that on the said date, i.e. 13.1.2009, there was a marriage ceremony of the petitioner.

After hearing counsel for the parties and considering the fact that the FIR pertains to the year 2009, all the accused qua whom the challan was presented as well as the other three accused qua who were summoned under Section 319 Cr.P.C are also facing the trial and the trial is at the fag end, considering the evidence on record, I find merit in the present petition.

In view of the judgment of Hon'ble Supreme Court in Hardeep Singh's case (supra) and Brijendra Singh's case (supra), I find that except naming the petitioner in the FIR the specific allegations are against other accused that they caused injuries and the petitioner, later on came when the complainant was raising a voice to save him and gave a stick blow in his feet.

Accordingly, I find that the evidence led by the complainant is not sufficient to summon the petitioner as an additional accused. Therefore, the revision is allowed and the impugned order is set aside.

Accordingly, the petition stands disposed off.

(ARVIND SINGH SANGWAN)
JUDGE

April 02, 2019

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Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO