

CRM-M-19851-2016

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

CRM-M-19851-2016 (O & M)

Date of Decision: 22.07.2019

Satvir Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms. Geeta Sharma, Advocate,
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. G.B.S.Dhillon, Advocate,
for respondent No.3.

INDERJIT SINGH, J.

Petitioners-Satvir Singh, Gurmeet Kaur, Rajinder Singh, Ravinder Singh @ Ramninder Singh, Gurinder Singh, Gindi @ Gurwinder Singh, Ravi @ Harwinder Singh and Harbant Singh have filed this petition under Section 482 of the Cr.P.C. for setting aside the order dated 02.09.2015 passed by learned Additional Sessions Judge, Patiala, whereby the order dated 25.11.2014 passed by learned Judicial Magistrate Ist Class, Nabha, allowing the application under Section 319 Cr.P.C. for summoning of the petitioners as additional accused, has been upheld.

Notice of motion was issued. Learned State counsel appeared on behalf of respondent No.1-State and respondent No.3 also appeared

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through his counsel. They contested this petition.

From the record, I find that during the pendency of trial against accused, Navjot Singh, an application under Section 319 of the Cr.P.C. was filed before the trial Court for summoning of the petitioners as additional accused. It is stated in the application that while getting his statement recorded to the police on 28.02.2014, the complainant specifically named all the accused persons and when he stepped into the witness-box as PW 2, he again named all the accused persons. Learned Magistrate on the basis of the statements given by the complainant to the police and before the Court, summoned the petitioners as additional accused to face the trial, vide order dated 25.11.2014.

Feeling aggrieved against the order dated 25.11.2014, the petitioners filed revision before learned Additional Sessions Judge, Patiala and the same was dismissed vide impugned order dated 02.09.2015. Hence, this petition.

I have heard learned counsel for the parties as well as learned State counsel and gone through the record.

From the record, I find that learned Additional Sessions Judge, Patiala, has dismissed the revision petition without discussing the facts and evidence on record by simply stating that complainant-Lal Singh has levelled specific allegations against all the accused persons, including the present petitioners, in his statement before the police and similarly, he alleged same allegations when he was examined during trial. It is also stated that although, he was not cross-examined but still there is enough material on record and resultantly, the revision petition was dismissed.

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Perusal of record shows that occurrence took place in October, 2013, whereas the FIR was registered on 28.02.2014 and the complaint was given to the police on 25.02.2014. It is clear from the FIR that litigation was already going on between the parties. There is general FIR that at night time, the accused had reaped the paddy crop. There is nothing as to whether the accused were armed with any weapon; whether they came on tractor-trolley; whether the complainant was present at the spot; whether the complainant tried to stop the accused from reaping the paddy crop and whether he informed the Sarpanch or police immediately. There is also nothing as to whether the accused have reaped the crop by machines or manually. The vague allegations have been levelled i.e. even after a delay of about 04 months. The investigating officer, after investigating the case, has found the petitioners as innocent. There is only one statement of complainant and the standard of proof in summoning case is somewhat more than prima facie case.

Learned Magistrate has summoned the additional accused without applying the mind and without appreciating the evidence on record in correct and proper perspective. Therefore, the order dated 25.11.2014 passed by learned Judicial Magistrate Ist Class, Nabha, and the order dated 02.09.2015 passed by learned Additional Sessions Judge, Patiala, are not correct and as per law.

In view of the above, the present petition is allowed and the order dated 25.11.2014 passed by learned Judicial Magistrate Ist Class, Nabha, and the order dated 02.09.2015 passed by learned Additional Sessions Judge, Patiala, are set aside and the application under Section 319

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Cr.P.C. filed by the prosecution for summoning of the petitioners as additional accused, is dismissed.

Pending application(s), if any, also stand disposed of.

22.07.2019
parveen kumar

(INDERJIT SINGH)
JUDGE

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