

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

**CRR No.647 of 2019 (O&M)
Date of Decision: July 15, 2019**

Gurpal Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.L.S.Sekhon, Advocate
for the petitioner.

Mr.Prabhjot Singh Walia, AAG, Punjab
for the respondent-State.

Petition dismissed as withdrawn qua respondent No.2.

Mr.J.S.Dhaliwal, Advocate
for respondents No.3 to 6.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurpal Singh against State of Punjab and other respondents, challenging the impugned order dated 20.02.2019 passed by learned Addl. Sessions Judge, Mansa, vide which the application filed by the prosecution under Section 319 Cr.P.C. was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.3 to 6 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that during the pendency of the proceedings against Balwinder Ram etc., an application under Section 319 Cr.P.C. was filed to summon Amritpal Singh, Swaranjit Singh alias Kala, Jatinder Kumar Jain alias Bobby Jain, Balwinder Singh alias Binder and Bohar Singh. It is stated in the application that FIR was registered on the statement of Gurpal Singh, in which he stated that above-said persons had taken active participation in the occurrence and are involved in the case. It is stated that Jatinder Kumar alias Bobby had raised *lalkara*, upon which, Prem Singh fired a gun shot, which hit on the left leg of Satnam Singh. Bohar Singh fired a shot from his revolver towards complainant, which hit upon right side of his head. Amritpal Singh and Balwinder Singh alias Binder damaged Swift car with the baseball bat whereas Swaranjit Singh alias Kala fire shot from his 12 bore gun. Names of Jatinder Kumar, Prem Singh, Bohar Singh and Swaranjit Singh alias Kala have been mentioned in the FIR and name of Amritpal Singh has been mentioned by Satnam Singh, injured. During the pendency of the application under Section 319 Cr.P.C., application qua Amritpal Singh was withdrawn as supplementary challan was presented against him. Learned trial Court, after hearing the parties, dismissed the application.

From the record, I find that application under Section 319 Cr.P.C. has been filed after the examination of PW-1 Gurpal Singh, PW-2 Satnam Singh and PW-3 Rajbhupinder Singh, who are complainant and injured witnesses and they are material witnesses. Admittedly, they have deposed regarding involvement of the above-said persons, to whom the complainant want to summon as additional accused. Rather, fire arm

injuries have also been alleged against Bohar Singh and Prem Singh. *Lalkara* has been alleged against Jatinder Kumar Jain alias Bobby and further, there are allegations that Balwinder Singh alias Binder has damaged the car and Swaranjit Singh alias Kala also fired shots from his 12 bore gun.

Learned trial Court, without considering the evidence, dismissed the application by simply stating that complainant could not prove that above-said accused were involved in the commission of the offence, which reasoning is not as per evidence and law. It is admitted at the time of arguments that names of above-said accused are mentioned in the FIR and also in the statements recorded in the Court and active role has been attributed to them by the PWs. Mere fact that during the enquiry, the police has not challaned these persons, is no ground to dismiss the application. Again, the reasoning given by the trial Court that there are only vague allegations, is also not as per record and evidence. It is argued that specific role has been attributed and in no way, it can be held that vague allegations have been levelled. Learned State counsel as well as learned counsel for respondents No.3 to 6 could not point out as to how the allegations can be held as vague.

The perusal of the record shows that findings of learned trial Court are perverse against the evidence and law. In no way, the allegations can be held as vague nor it can be held that there is nothing to show the involvement of the persons sought to be summoned as additional accused. The standard of proof for summoning additional accused is somewhat more than prima facie case. In the present case, three PWs including complainant and injured witnesses, have deposed regarding active participation of the above-said additional accused.

In view of the above discussion, I find that the impugned order dated 20.02.2019 passed by learned Addl. Sessions Judge, Mansa, is illegal and the same is set aside.

Finding merit in the present petition, the same is allowed. Application under Section 319 Cr.P.C. stands accepted qua summoning Swaranjit Singh alias Kala, Jatinder Kumar Jain alias Bobby Jain, Balwinder Singh alias Binder and Bohar Singh.

July 15, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No