

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

105

Crl. Rev. No.732 of 2019 (O&M)

Date of Decision:- 25.03.2019

Raj Kumar

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. G.S. Sandhu, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is the complainant. A complaint was filed by him in the office of Superintendent of Police on 7.11.2017 on account of the death of his sister Suman and maternal nephew Shubham. Based thereon, FIR No.363 dated 8.11.2017 was registered at Police Station Nissing, District Karnal, under Sections 302/201 IPC. Apart from Anil Kumar (husband of deceased Suman), Dhani @ Khazan Chand-respondent No.2 was mentioned as accused. Subsequently, a supplementary statement of the complainant was recorded and respondents No.3 and 4 were also nominated as accused. However, on filing of report under Section 173 Cr.P.C., the private respondents were declared innocent and kept in column No.2. An application under Section 319 Cr.P.C. was filed upon partial recording of statement of Raj Kumar PW-6-complainant. The learned Additional Sessions Judge has rejected the said application vide impugned order dated 16.1.2019.

Learned counsel for the petitioner submits that the complainant has named the private respondents as accused persons while getting his statement recorded as PW-6. They had also been named as accused in his statement recorded under Section 161 Cr.P.C. and, thus, the trial Court was in error in rejecting the application.

It has now been settled beyond doubt that an application under Section 319 Cr.P.C. can only be allowed if there is sufficient evidence on record before the trial Court to satisfy the said Court that if the evidence remains unrebutted, the conviction of the additional accused is likely to take place. In the present case, the complainant has reiterated what he had stated in his statement under Section 161 Cr.P.C. and based thereon, the police has investigated the matter and found respondents No.2 to 4 to be innocent. Thus, the mere reiteration of the statement of the complainant, on oath, is not sufficient to fulfill the legal requirements laid down under Section 319 Cr.P.C.

For the aforementioned reasons, there is no error in the impugned order. The petition has no merit and is accordingly dismissed.

March 25, 2019
poonam

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No