

CRM-M-31696-2014

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

CRM-M-31696-2014 (O & M)

Date of Decision: 18.07.2019

Subhash Verma

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Damanjeet Bhoriwal, Advocate,
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

None for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner-Subhash Verma has filed this petition under Section 482 of the Code of Criminal Procedure 1973 (for brevity, 'Cr.P.C.') for setting aside order dated 04.10.2012 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Abohar, whereby application under Section 319 Cr.P.C. filed by the petitioner for summoning of respondents No.2 and 3 as additional accused in FIR No.228 dated 09.07.2008, registered at Police Station City-II, Abohar, has been dismissed, and for setting aside the order dated 05.09.2014 (Annexure P-2) passed by learned Additional Sessions Judge, Fazilka, whereby revision filed by the petitioner challenging the order dated 04.10.2012 (Annexure P-1) has been dismissed.

Notice of motion was issued. Learned State counsel appeared and contested the petition. Earlier, learned counsel for respondents No.2 and

CRM-M-31696-2014

3 was appearing but today, none has put in appearance on behalf of respondents No.2 and 3.

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

Perusal of record shows that challan has been presented against accused Rakesh Kumar. During the pendency of trial, an application under Section 319 of the Cr.P.C. was filed by the prosecution to summon Anand Sharma and Rajesh (respondents No.2 and 3 herein) as additional accused, who have been shown innocent and whose names have been kept in column No.2. Perusal of record shows that only *lalkara* has been attributed to Anand Sharma, whereas complainant stated in the FIR that Rajesh Kumar was armed with iron weight and injuries have been given. As per the order dated 04.10.2012 passed by learned JMIC, Abohar, the doctor stated that injuries No.1 and 3 on the person of injured, Subhash Verma, could be the result of friendly hand. Learned Magistrate has appreciated the evidence in right perspective and held that as per PW 1 complainant-Subhash Verma, Rakesh Kumar was armed with iron rod and Rajesh Kumar was armed with iron weight and they caused injuries on his person. However during the cross-examination, complainant stated that Rajesh Kumar was not having an iron rod nor he caused any injury on his person with iron rod. The court further held that another eye-witness, Preeti Verma, stated in her chief-examination that Rajesh was armed with baseball bat. The doctor stated that injuries No.1 and 3 could be as a result of friendly hand.

Keeping in view the above reasoning given by learned trial

Court, I find that in no way, the same can be held as illegal or perverse.

CRM-M-31696-2014

The standard of proof for summoning an additional accused under Section 319 Cr.P.C. is somewhat more than a *prima facie* case. Perusal of the impugned orders passed by learned trial Court as well as revisional court shows that the same have been passed as per law and no illegality has been committed nor the same can be held as perverse.

In view of the above, I find that the impugned orders passed by the courts below are correct, as per evidence and, therefore, the same are upheld.

Finding no merit in the present petition, the same is dismissed.

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

18.07.2019

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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