

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

CRM No.M-39214 of 2015 (O&M)

Date of Decision: April 11, 2019

Nirmal Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Handa, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.Vipin Mahajan, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner Nirmal Singh has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents, for quashing of impugned order dated 09.04.2015 passed by learned JMIC, Batala, vide which the application filed by the petitioner for summoning Jaswinder Singh, Kirandeep Singh, Balwinder Singh and Jagir Singh as additional accused was dismissed, impugned judgment dated 30.07.2015 passed by learned Addl. Sessions Judge, Gurdaspur, vide which the revision petition filed by the petitioner was also dismissed as well as order dated 23.10.2015 passed by learned JMIC, Batala, vide which, application under Section 216

Cr.P.C. for amending charge was dismissed in case FIR No.95 dated

30.07.2012 under Sections 324, 326, 323 and 34 IPC registered at Police Station Qila Lal Singh, District Gurdaspur.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.2 and 3 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 and impugned orders and judgment.

From the record, I find that the application under Section 216 Cr.P.C. filed by the complainant for amending the charge under Section 307 IPC has been dismissed by the learned trial Court rightly on the ground that none of the injury has been declared dangerous to life by the doctor and secondly, the perusal of the statements of complainant and other eye witnesses show that they have nowhere stated that injuries have been given with an intention to kill complainant party. When PWs themselves are not deposing that injuries have been given with intention to kill and doctor has not declared the injury, as dangerous to life, therefore, prima facie, no ground is made out to frame the charge against accused under Section 307 IPC by amending the charge.

As regarding summoning of Jaswinder Singh, Kirandeep Singh, Balwinder Singh and Jagir Singh as additional accused, I find that in the FIR, only names of Jagdish Singh @ Deesha and Jagjit Singh have been mentioned and it is stated that they came along with four other youngsters. Those four other persons were not named in the FIR nor their names came during investigation and challan was presented only against two of the named accused. Even in the chief-examination, the complainant-injured has

named only two challaned accused and referred other accused as unidentified persons, who caused injuries. It is only during cross-examination, the complainant has named those four persons i.e. persons sought to be summoned as additional accused.

Keeping in view the above facts, learned Court below has rightly dismissed the application under Section 319 Cr.P.C. Otherwise also, from the perusal of the record, it does not appear to the Court that these persons are involved in the commission of the offence and should be tried along with other accused. The standard of proof for summoning additional accused under Section 319 Cr.P.C. is somewhat more than prima facie case. In this case, even the complainant has not named them in the chief-examination and described them as unidentified persons. Merely on naming these four persons in the cross-examination, after more than two years of the occurrence, they cannot be summoned under Section 319 Cr.P.C.

In view of the above discussion, I find that no illegality has been committed by learned Courts below while passing impugned orders and judgment.

Therefore, finding no merit in the present petition, the same is dismissed.

April 11, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No