

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

CRR-1214-2019 (O&M)
Date of decision : 25.07.2019

Manjinder Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jatinder Pal Singh, Advocate for the petitioners.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Mr. S.K. Bokolia, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Challenge is to the order dated 12.04.2019 passed by the Sessions Judge, Moga, summoning the petitioners as additional accused under Section 319 Cr.P.C. Operative part of the order reads as under:-

“During his examination in chief in court, the complainant has again leveled specific allegations against Satwinder Kaur and Manjinder Singh. Therefore, it can not be said that complainant Jagmeet Singh has improved his version, so as to procure the summoning of above said accused persons. The available evidence against Satwinder Kaur and Manjinder Singh appears to be sufficient to warrant conviction, if remains un rebutted. As such, Satwinder Kaur and Manjinder Singh are required to be summoned as additional accused, so as to make them to face

the present trial. Consequently, the application under Section 319 Cr.P.C. is allowed. Papers be tagged with the main case file.”

It is apparent that on mere statement of first informant-complainant, the Court formed an opinion and decided to summon the petitioners as additional accused. It may be noted here that Jagsir Singh is alleged to have fired a shot from 315 bore rifle which resulted in death of his brother Jasveer Singh. In the FIR, petitioners, wife and son of Jagsir Singh, were sought to be implicated. The Investigating Agency conducted investigation and found that both the petitioners were not present at the place of murder. Even CCTV footage and tower locations were examined.

As per FIR, Satwinder Kaur is said to have given a exhortation (lalkara) whereas Manjinder Singh is said to have given a kick blows to the deceased. However, Investigating Agency did not find sufficient evidence to establish the case against the petitioners.

The prosecution after examining first informant in chief filed this application. First informant is author of the FIR and, therefore, he has made deposition in line with the contents of the FIR.

As per the Constitution Bench judgment of Hon'ble the Supreme Court in the case of **Hardeep Singh Vs. State of Punjab and others, (2014) 3 SCC 92**, it has been laid down that the summoning of additional accused under Section 319 Cr.P.C. has to be done only after the Court is satisfied that more than prima facie material/evidence is available against the accused sought to be summoned as additional accused. Such power is to be used sparingly. In the present case, from the reading of the

order, the Court does not record that more than prima facie material is available against the petitioners. No other evidence except statement of first informant has been produced at this stage to prove or establish the locations of the petitioners at the place of occurrence.

Accordingly, order under challenge is set aside. However, the prosecution shall be entitled to move a fresh application after producing sufficient material/evidence before the Court.

In view of what has been observed above, the present criminal revision petition is allowed.

25.07.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**