

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

**CRR-163-2016
Date of Decision:25.11.2019**

Inderjit @ Ajit and others **...Petitioners**

Versus

State of Haryana and another **...Respondents**

CRR-1112-2016

Zile Singh @ Lila **...Petitioner**

Versus

State of Haryana and another **...Respondents**

CRR-1740-2016

Mahabir **...Petitioner**

Versus

State of Haryana and another **...Respondents**

CRR-2055-2016

Satish **...Petitioner**

Versus

State of Haryana and another **...Respondents**

CRR-2430-2016

Rishi Pal and another **...Petitioners**

Vs.

State of Haryana and another **...Respondents**

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.R.S.Cheema, Senior Advocate with
Mr.Ashwani Bakshi, Advocate and
Mr.Vijay Kumar Goyal, Advocate for the petitioners in
CRR No.163-2016, CRR-2055-2016 and CRR-2430-2016.

Mr.R.A. Sheoran, Advocate for the petitioner in
CRR-1112-2016.

Mr.Nitin Rathee, Advocate for the petitioner in
CRR No.1740-2016.

Mr.Manish Bansal, DAG, Haryana

ANIL KSHETARPAL, J.

By this order, five revision petitions bearing CRR No.163 of 2016, CRR No.1112 of 2016, CRR No.1740 of 2016, CRR No.2055 of 2016 and CRR No.2430 of 2016, arising from a common order passed by the Court of Session, shall stand disposed of.

The Court of Sessions has allowed the application under Section 319 of the Code of Criminal Procedure (for short 'the Code') while summoning 16 persons as additional accused. Correctness of the order passed by the Court of Session was challenged and the High Court allowed the revision petition vide order dated 09.03.2017. But the Hon'ble Supreme Court has remitted the matter back to this Court to reconsider the matter, operative part thereof is extracted as under:-

“The main reason why the High Court has reversed the order of the learned Additional Sessions Judge is that none of the injured except the complainant has attributed any role or injury to the respondents-accused. Whether the complainant's evidence is truthful and can result in conviction is a matter which could have only gone into at the trial of the case. We do not think it was permissible for the High Court to appraise the evidence in the manner it was done.

In the circumstances, we allow these appeals, set aside the impugned order passed by the High Court and remand the matter to the High Court for fresh consideration in accordance with law.”

This Court has heard learned counsel for the petitioners and counsel appearing for the State and with their able assistance gone through

the documents filed in the paper-book.

On careful reading of order passed by learned Court of Session, it comes out that the Court while ordering summoning of 16 persons as additional accused has not examined their individual role or part played by them while referring to the depositions of the prosecution witnesses before the Court, statements of victims under Section 161 of the Code and FIR. Summoning of additional accused in a murder trial is a serious matter. Before summoning additional accused, it is incumbent for the Court to examine the case in accordance with the guidelines laid down in Section 319 Cr.P.C. as interpreted by the Constitutional Bench of Hon'ble Supreme Court in the case of **Hardeep Singh Vs. State of Punjab and others (2014) 3 SCC 92**, wherein it has been laid down that the additional accused can be summoned only if the Court comes to a conclusion that more than a prima facie case is made out against the persons sought to be summoned as additional accused. It may be noted here that in the First Information Report, first informant has averred that Bali Pehlwan @Balbeer along with his 30-35 comrades had come to his shop and attacked.

From the reading of the final report, it is apparent that in this case one death has taken place, whereas seven persons are injured. The police after investigation found material against 18 accused, whereas formed an opinion that there is no material against 15 persons. Thereafter, first informant filed an application for summoning additional accused which was countersigned by the Public Prosecutor on 06.02.2015 praying for summoning of 16 additional accused. Thereafter amended application was filed on 10.02.2015 by adding another four persons, thus total persons sought to be summoned were 20.

Keeping in view the aforesaid facts, this Court of the considered view that ends of justice would be met if the learned Court of Session is requested to re-decide the application for summoning additional accused, in accordance with the interpretation given by the Hon'ble Supreme Court in the case of **Hardeep Singh** (supra). The reason, why this Court is directing the learned Session Court to re-decide the matter, is that counsel for the petitioner has compiled the information in a tabulated form dealing each of the person, irrespective of fact that whether he is a petitioner before this Court or not, with reference to the version in the FIR, the statement of the victims and witnesses under Section 161 of the Code and deposition of prosecution witnesses in the Court. Copy of the tabulated information is annexed as Annexure I.

Correctness of aforesaid information compiled is not being disputed by the learned State Counsel.

In these circumstances, this Court refrains from going into the detailed consideration, consider it appropriate to request the Court of Sessions to reconsider the matter as some of the persons who have been summoned as additional accused have not filed any petition.

Accordingly while setting aside the order under challenge, learned Court of Sessions is requested to re-decide the prayer under Section 319 Cr.P.C. after examining the allegations with regard to each and every person, who is sought to be summoned as additional accused, within a period of 30 days positively.

25.11.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No