

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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C.R.R. No.2550 of 2017 (O&M)
Date of Decision : 10.01.2019

Harinder Singh and another

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajesh Bansal, Advocate
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. G.S. Sidhu, Advocate
for the complainant-respondent No.2.

AJAY TEWARI, J. (ORAL)

This petition has been filed against the order dated 09.08.2016 summoning the petitioners as an additional accused in FIR No.121 dated 12.11.2015 registered under Sections 302, 341, 323, 324 IPC at Police Station Rori, District Sirsa, Haryana.

As per the allegations, Jasbir Singh @ Sira was going alongwith his father on 11.11.2015 on motorcycle to their Village Jhorar Rohi from Village Rori. At about 6.30 PM, when they were in between from Village Thiraj and Jhorar Rohi, at the culvert of Pakka Khal, a white colour Bolero vehicle came from the front side and parked the vehicle in

front of their motor-cycle. Around 9 persons including the petitioners then came out of the vehicle and started giving blows to the father of the eye witness who fled from the spot. He reached home and arranged a vehicle alongwith other relatives and came back on the spot and found his father lying injured. They first took his father to their village and from there they took him to Sirsa Hospital where he succumbed to his injuries after 4 hours. Though the eye-witness named the petitioners in his statement but the police has not filed challan against them having been found them innocent and therefore exculpated them. After the complainant/eye-witness gave his testimony, he moved the present application for summoning the petitioners which having been allowed, the present petition has been filed.

Counsel for the petitioners has argued that actually the complainant was not present on the spot at all because had he been present, he could not have run away leaving his father there. Moreover, once they discovered the injured father they did not take him to the hospital directly and first took him home and the FIR was lodged after 18 hours i.e. after full preparation.

Counsel for the complainant-respondent No.2 on the other hand has argued that physical courage is an individual attribute. One person may try to save another person while somebody else may so fearful that he may have run away. As regards the argument that the deceased was not taken to the hospital directly, he has argued that when the complainant reached there the deceased was conscious but injured and therefore it was not impossible that they first took him home and later on when they realized the seriousness of his condition, they rushed to hospital. As per the counsel for

the complainant, the deceased died within 4 hours and the cause of the death was also the injuries suffered by him. Further specific roles were attributed to the petitioners.

In my considered opinion, the arguments raised by the counsel for the petitioners can be best addressed during the trial but at this stage, as the trial court has pointed out and rightly so, that version of the deceased and the medical record does bring the case within the parameters of Section 319 Cr.P.C.

Petition stands dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

January 10, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No