

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

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**C.R.R No.3139 of 2018 (O&M)
Date of Decision : 01.04.2019**

Shameem

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ashwani Gaur, Advocate
for the petitioner.

Mr. Gaurav Bansal, A.A.G., Haryana.

Mr. Ravi Malik, Advocate
for respondents No.3 and 4.

AJAY TEWARI, J. (ORAL)

This petition has been filed for quashing of order dated 23.08.2018 passed by the trial Court dismissing an application under Section 319 Cr.P.C. for summoning of respondents No.2 to 4 to face trial as additional accused.

The primary ground taken by the Court for dismissing that application was that an earlier application had been declined in the year 2016.

Counsel for the petitioner has argued that in the year 2016 the application had been rejected on the ground that the testimony of PW2 was not sufficient to invoke the power under Section 319 Cr.P.C. However, the facts are that there were two injuries on the head of Mohammad Hassan

which was declared as dangerous to life and that is why ultimately Section 307 IPC was attracted. As per PW2, when he arrived at the site of occurrence Mohammad Hassan was already lying injured on the ground and now when Mohammad Hassan has come to give his testimony he has mentioned that two injuries on his head were given by respondents No.3 and 4. As per the counsel for the petitioner, if the impugned order is allowed to stand no one can be convicted under Section 307 IPC because these are two persons with whom those injuries have been attributed.

Counsel for respondents No.3 and 4 have argued that the first application was dismissed and rightly so because PW2 did not state even a word against respondents No.3 and 4.

In my considered opinion, the argument of counsel for respondents No.3 and 4 is not enough. The injuries on the head of Mohammad Hassan have been explained by him when he appeared as PW3 and as regards PW2, even as per his own statement when he reached the site of occurrence, Mohammad Hassan was already badly injured. In these circumstances, it cannot be said that the case is not covered by the parameters of *Hardeep Singh etc. vs. State of Punjab and Others, 2014(4) RCR (Criminal) 623*.

In the circumstances, keeping in view the entire conspectus of facts and without going into the merits of the case, I deem it appropriate to allow this petition. Ordered accordingly. Impugned order dated 23.08.2018 is set aside.

Petition stands allowed. The respondents No.3 and 4 are directed to appear before the trial Court on the next date to face trial. The

trial Court shall release them on bail to its satisfaction.

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

April 01, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No