

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

Crl.Rev. No. 3255 of 2018

Date of Decision:- 29.01.2019

Hifzul Rehman

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mohd. Arshad, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is the complainant. He is aggrieved by order dated 13.9.2018 whereby his application under Section 319 Cr.P.C. has only been partially allowed.

FIR No.75 dated 22.4.2016 came to be registered at Police Station Nagina, District Mewat-Nuh, under Sections 323, 307, 452, 506, 34 and 325 IPC on the complaint made by the petitioner that there was an altercation between his children and children of his brother on account of a game of cricket, which was amicably settled. However, the brother and his children armed with lathis and iron rods came in the evening and inflicted injuries upon him as well as on his wife, niece and a family member. Fourteen persons were named in the FIR. However, after investigation, the police presented challan against three persons only. Consequently, after the examination of the complainant, an application under Section 319 Cr.P.C. was filed to summon five persons as additional accused. Vide the impugned order only one person, namely, Wahab has been summoned as additional accused and the application has been dismissed qua rest of the persons.

Learned counsel for the petitioner submits that the persons sought to be

Section 161 Cr.P.C. as well as in the statement of the complainant recorded before the trial Court. Thus, the trial Court was in error in dismissing the application qua them. The injuries inflicted by them have been borne out from the MLR also.

It has been stated times without number that merely because the petitioner reiterates his statement while being examined as a witness before the trial Court, it is not sufficient to invoke the jurisdiction under Section 319 Cr.P.C. For invoking the jurisdiction under Section 319 Cr.P.C., the trial Court must be satisfied on the basis of the evidence on record that in case the same remains unrebutted, it would result in the conviction of the persons sought to be summoned as additional accused. The additional accused were named in the FIR but after investigation, the police had placed their names in column No.2. The complainant has only reiterated what he has stated under Section 161 Cr.P.C. and the same is not sufficient fulfilment of the requirements under Section 319 Cr.P.C. Thus, no error can be found with the impugned order.

The petition is without any merit and is accordingly dismissed.

January 29, 2019
poonam

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned **Yes**

Whether reportable **No**