

**In the High Court of Punjab and Haryana at Chandigarh**

235

**CRR-3794-2018 (O & M)**

**Date of Decision: 16.07.2019**

**MANJEET & ORS**

**.....PETITIONERS**

**VERSUS**

**STATE OF PUNJAB & ANR**

**....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Vishal Thakur, Advocate for  
Mr. Keshav Pratap Singh, Advocate for the petitioners.

Mr. B.S. Saini, Advocate for petitioner No.3.

Mr. Dhruv Dayal, Senior DAG, Punjab.

Mr. J. S. Ghumman, Advocate for respondent No.2.

\*\*\*\*

**ANUPINDER SINGH GREWAL, J (ORAL)**

The petitioners have challenged the order of the trial Court dated 25.09.2018 whereby they have been summoned under Section 319 Cr.P.C. as additional accused to face trial for the offences under Sections 308, 323, 325, 506, 341, 148 and 149 IPC.

Learned counsel for the petitioners contends that the impugned order has been passed in a casual manner without there being any cogent evidence to summon the petitioners to face trial. He further states that offence under Section 308 was invoked with regard to injury of Sucha Singh which is attributed to accused Kamli who is facing trial. Injury with respect to Section 323 is also attributed to Satpal alias Satta who is a proclaimed offender.

Learned counsel for the complainant, however, contends that the petitioners were named in the FIR and had actively participated in the commission of the offence and, therefore, they have been rightly summoned by the impugned order.

Heard.

The complainant Gajjan Singh had lodged the FIR stating therein that he and injured Sucha Singh had received injuries in the occurrence. It is specifically mentioned in the FIR that co-accused Sohan Lal, Kamalvir @ Kamli and Satpal Singh alias Satta had caused various injuries to the complainant and the injured. It is stated in the FIR that Kamli, Satpal @ Satta, Sohan and Raj had entered the house while they were armed with sharp edged weapons which included 'dang', sticks and hand pipes. Kamli grabbed him by the hair and threw him on the ground and Satpal @ Satta hit him with the pipe of the tap on his lips due to which one teeth from the upper jaw started shaking. Then Satta hit him again with the pipe on the left chin. Sohan Lal hit him with a stick on his left shouler and Raju hit him with a stick on his left leg. The injuries are thus specifically attributed to co-accused Kamli, Satpal alias Satta, Sohan and Raj. Satta alias Satpal is stated to be a proclaimed offender while the other accused were challaned and are facing trial. It is only in the later part of the FIR that the names of the petitioners have been mentioned that they had beaten his brother. No specific injury has been attributed to them and the description of the weapons they were having is not set out. They are in fact not stated to be armed with any weapon. However, it is said that all the persons named in the FIR had beaten his brother with several weapons. There are three injuries on the person of Sucha Singh while there are four on the person of Gajjan Singh. One of the injuries on the person of Gajjan Singh is grievous in nature which is attributed to co-accused Satpal Singh alias Satta. All other injuries on the person of the complainant and the injured are simple in nature. Upon conclusion of the investigation, the petitioners were not found to be connected with the commission of the offence and challan was not presented

against them. It has been settled by the Supreme Court in the case of **Hardeep Singh versus State of Punjab, 2014 (3) SCC 92** that resort to power under Section 319 Cr.P.C. should not be done in a casual manner and there has to be something more than a prima facie case to connect them with the commission of the offence before they are summoned as additional accused to face trial. Mere reiteration of the version in the complaint by the complainant in his deposition before the Court would not be enough to summon them as accused. No active and specific role has been attributed to the petitioners in the FIR and besides, the statement of the complainant in the Court, no prima facie evidence has come on record which would warrant the summoning of the petitioners to face trial as additional accused.

Consequently, this petition is allowed and the impugned order of summoning the petitioners as additional accused under Section 319 Cr.P.C. is set aside.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**July 16, 2019**

A.Kaundal

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