

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

**Criminal Rev. No.2800 of 2019(O&M)
Date of Decision: December 02, 2019**

Tarsem Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Maninder Singh Bajwa, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

This petition has been filed impugning the order dated 09.09.2019 of the learned Additional Sessions Judge, Gurdaspur, whereby, the application under Section 319 of the Code of Criminal Procedure for summoning Amritpal Singh son of Amarjit Singh as an accused to face trial has been dismissed.

The FIR was registered on the complaint of the petitioner Tarsem Singh, who stated that on the intervening night of 13/14.06.2015 at about 9.30 pm he and his family members were talking with each other by sitting on cots lying in the veranda of their house after taking dinner. The outer gate of the house was closed, but not locked. Suddenly, a vehicle stopped in front of their house and two persons came out of it. One person had muffled his face, while the second had not. They came inside the house by pushing the gate. The person with muffled face fired a shot with intention to kill the family members. The family members avoided the shot

by lying down. The assailant fired another shot, which hit on the roof of the room. The family members raised alarm, whereafter, the persons ran away in their vehicle. He suspected that the offence had been committed by Amarjit Singh son of Tarlok Singh along with some other person.

After completion of the investigation, the challan was presented against Amarjit Singh. In his examination-in-chief while reiterating his earlier statement given to the police that at about 9.30 pm two persons had alighted from a vehicle. They pushed the door of the house, which was not locked. The person who pushed the door was Amritpal Singh and the second person was Amarjit Singh. Amarjit Singh had a rifle in his hand, while Amritpal Singh was empty handed. Amritpal Singh raised a *lalkara* that the complainant and his family members be not spared. Thereafter, Amarjit Singh fired a shot towards the complainant. However, the family was saved.

After making the above statement, an application under Section 319 CrPC to summon Amritpal Singh as an additional accused was made.

The learned Trial Court dismissed the application holding that in his earlier statement dated 16.06.2015, on the basis of which the FIR was registered, the complainant had mentioned that of the two persons, who forcibly entered into the house, one was with muffled face and having a rifle in his hand. The person having muffled face had fired a shot towards the complainant and his family members. The complainant had not even named Amritpal Singh as assailant. The name of Amritpal Singh for the first time was included in the statement before the Trial Court while deposing as PW2. Merely by deposing in court and making an improvement in earlier version

cannot be a ground for summoning Amritpal Singh as an additional accused.

The learned Trial Court referred to various decisions of Hon'ble Supreme Court holding that exercise of power under Section 319 CrPC is an extraordinary power and should be used sparingly and not in routine. This provision can be invoked if there is sufficient evidence to summon. In the present case, in his initial statement the petitioner had not named even Amritpal Singh. There was no mention that second person had raised a *lalkara* that the family of the complainant be not spared. Evidently, the petitioner has made an improvement.

In the circumstances, the learned Trial Court has rightly dismissed the application. There is no ground to interfere in the impugned order.

The petition is dismissed.

December 02, 2019

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No