

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3191-2017 (O&M)

Date of decision: 01.03.2019

Jakir

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. SR Hooda, Advocate for the petitioner.

Mr. Raj Kumar Makkar, Sr. DAG, Haryana.

Mr. Abhinav Sood, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

CRM-28436-2017

For the reasons explained in the application which is supported by an affidavit, the same is allowed. Delay of 93 days in filing the instant revision is condoned.

CRR-3191-2017 (O&M)

Through this revision the complainant-petitioner has laid challenge to the order dated 05.04.2017, whereby his application under Section 319 Cr.P.C., for summoning respondent No. 2-Immamudin @ Mammu, as an additional accused was dismissed.

In nutshell, son of the petitioner, namely; Nizamuddin was murdered on 09.07.2016. His dead body was thrown in front of his house.

The revisionist-complainant, initially, named respondent No. 2 and one

Saddam, along with 3-4 persons as murderers of his son. However, during

investigation, the police found the complicity of only Saddam. Consequently, final report under Section 173(2) Cr.P.C. was filed only against Saddam, placing respondent No. 2 in its column No. 2, as innocent. During trial, the petitioner after recording his statement, moved application under Section 319 Cr.P.C. to summon respondent No. 2-Immamudin @ Mammu, as additional accused which was dismissed by the trial Court vide order impugned herein.

Learned counsel *inter alia* contends that petitioner as PW-1 has specifically named respondent No. 2-Immamudin @ Mammu, as one of the murderers of his son. Therefore, the trial Court, had illegally dismissed his application under Section 319 Cr.P.C. The statements of complainant-petitioner before police and in Court against accused, are identical, because accused-Saddam in his disclosure statement, had named respondent No. 2-Immamudin @ Mammu and one Dilshad as his accomplice.

On the other hand, learned counsel for respondent No. 2 refuting the submissions of learned counsel for the petitioner pleaded the legality and validity of impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

Perusal of impugned order shows that the petitioner in his cross-examination admitted that he or anyone else did not witness the murder of his son. Therefore, the only allegations against respondent No. 2, sought to be summoned as additional accused is that he and co-accused-Saddam, threw dead body of son of the petitioner in front of his house. This fact by in itself, at this stage, does not *prima facie* prove the complicity or

involvement of respondent No. 2-Immamudin @ Mamu, in the commission of murder of son of the petitioner, in the absence of any cogent and convincing evidence.

I have carefully gone through the impugned order and find no illegality or perversity in the same.

The instant revision, being meritless, is dismissed.

March 01, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No