

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

CRR No. 3255 of 2019

Date of decision: 05.12.2019.

Mamta

..... Petitioner.

Versus

Ankit and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Devender Arya, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 01.10.2019 whereby the application preferred under Section 319 of the Code of Criminal Procedure, 1973 ('Code' - for short), for summoning the private respondents as additional accused has been dismissed.

Learned counsel for the petitioner contends that the private respondents were named by the complainant in his supplementary statement and the complainant in his deposition before the Court had also specifically named them and, therefore, they ought to be summoned under Section 319 of the Code to face trial as additional accused.

Heard.

It is apparent that deceased Rajpal had received three injuries while Sher Singh injured had also received three injuries. Eleven persons have been challaned by the police and they are facing trial. The private respondents were not named by the complainant in the FIR wherein eleven accused were specifically named and attributed specific roles while causing injuries to the deceased and the injured. The complainant in his

supplementary statement recorded on 28.08.2018 had also not named them. It was only subsequently when supplementary statement of the complainant was recorded on 05.09.2018 when he had named the private respondents as accused. Injured - Sher Singh in his statement, which was recorded on 20.10.2018, had also not named the private respondents as the accused, who had participated in the occurrence. It has also been held by the Supreme Court in the case of Hardeep Singh vs. State of Punjab, 2014 (1) RCR (Criminal) 623, that the power under Section 319 of the Code has to be used sparingly and only in those cases where the circumstances exist for doing so. The test that has to be applied is one which is more than *prima facie* case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. It is also to be borne in mind that there is a tendency to rope in a large number of persons to face trial as additional accused. In the instant case, eleven persons are already facing trial. The private respondents were not named in the complaint and the supplementary statement of the complainant recorded on 28.08.2018. Therefore, I do not find any infirmity in the order of the trial Court dismissing the application under Section 319 of the Code for summoning the private respondents as additional accused.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

05.12.2019

Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No