

CRR-775 of 2019

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

CRR-775 of 2019
Date of Decision: 16.01.2020

Salim

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Arun Sharma, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, the complainant has laid challenge to order dated 22.01.2019 of the trial Court, dismissing his application under Section 319 Cr.P.C. for summoning four persons, namely, Nazim, Imran, Salim and Nawab as additional accused.

Briefly, complainant made a statement before the police that in the evening of 06.07.2016, five persons, namely, Muneem, Rasheed, Naseem, Rizwan and Ahmed, already facing trial, caused him and three more persons, namely, Ali Hassan, Nadeem and Wadil grievous injuries with deadly weapons like knife, *lathi*, *danda* etc. in a pre-planned manner. After recording FIR and completing investigation, aforesaid five persons were sent to Court for facing trial under Sections 148, 323, 325, 307, 506 read with Section 149 IPC and Section 25 of the Arms Act. During trial, petitioner-complainant moved application under Section 319 Cr.P.C. to summon aforesaid four persons as additional accused, which, after hearing

CRR-775 of 2019

learned State counsel, assisted by learned counsel for the complainant, was dismissed vide impugned order dated 22.01.2019.

Learned counsel for the petitioner *inter alia* contends that above four persons sought to be summoned as additional accused actively participated in the occurrence inasmuch as Salim gave a knife blow to Nadeem in his stomach, whereas Nazim gave a rod blow on the left side of his ribs, Nawab gave two-three *lathi* blows to Nadeem and fourth accused Imran also gave *lathi* blow to one of the injured. However, names of three persons, namely, Imran, Salim and Nawab could not be mentioned in the initial statement to the police, because at that time, complainant was not in a fit state of mind on account of receipt of grievous injuries on his person. Nazim was wrongly declared innocent during investigation. Complainant appearing as PW1 specifically pointed out role of aforesaid persons. Therefore, trial Court was required to summon them as additional accused. Petitioner's application has wrongly been dismissed.

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

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmity in the order of the trial Court.

Admittedly, aforesaid four persons, who are sought to be

CRR-775 of 2019

summoned as additional accused except Nazim, were not named by the petitioner-complainant in his initial statement, which culminated into FIR. Nazim was found innocent during investigation. Learned counsel for the petitioner has not been able to point out any infirmity in the investigation declaring Nazim as innocent. There is no plausible explanation with the petitioner as to why he did not name remaining three persons, namely, Imran, Salim and Nawab as assailants while recording his initial statement, despite the fact that, now as PW1 according to him, they had caused grievous injuries to him. Not naming them in the initial version, which is always treated as a true version in criminal cases, proves that petitioner tried to falsely get them summoned as additional accused by concocting a false story and falsely deposing against them.

Trial Court has given detailed reasons for dismissal of application of the petitioner. Relevant portion of the impugned order is reproduced hereunder: -

“Further, in his complaint, he had not mentioned the names of Nazim, Imran, Salim and Nawab at all nor any specific acts were attributed to them. Even the other injured are not shown to have taken the names of above named Nazim, Salim and Nawab in their statements as recorded under Section 161 Cr.P.C. Though, the name of Imran had been disclosed as one of the assailants by one of the injured witness and at the time of filing of the challan report, it was mentioned that warrants were issued against the above said Imran, but I had called report of SHO as to the latest status and as per the report received today, the above named four persons including Imran had been found to be innocent during investigation as per report dated 08.10.2016. The applicant has improved the

CRR-775 of 2019

version as given in the complaint at the time of recording of his statement. No explanation has been given by him as to why names of these four accused were not disclosed earlier. The Investigating Agency has thoroughly investigated the matter and has found the persons sought to be summoned as additional accused to be innocent. As such, some evidence of such nature was required to be produced on record which has not been considered by the Investigating Agency. It is well settled that merely the statement of complainant, ipso fact, cannot form the basis for summoning a person under Section 319 Cr.P.C.”

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

Dismissed.

(RAMENDRA JAIN)
JUDGE

January 16, 2020
R.S.

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No