

Sr.No.118

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

CRM-M-41520-2018(O&M)

Date of decision:23.01.2020

Parveen

... Petitioner(s)

versus

State of Haryana and another

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Rakesh Nehra, Advocate
for the petitioner.

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed under Section 482 Cr.P.C seeking quashing of impugned order dated 07.06.2018 passed by learned Additional Sessions Judge, Jhajjar (Annexure P-7) and impugned order dated 08.12.2016 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Jhajjar whereby the petitioner was summoned under Section 319 Cr.P.C in FIR No.220, dated 28.06.2015 registered under Sections 323, 506, 34 IPC at Police Station Beri, District Jhajjar.

Learned counsel for the petitioner has argued that the petitioner has been summoned under Section 319 Cr.P.C vide order dated 08.12.2016 (Annexure P-6) against which the revision petition was filed by him which was dismissed vide impugned order dated 07.06.2018 (Annexure P-7).

Learned counsel for the petitioner has contended that no ground was made out in the application under Section 319 Cr.P.C, therefore, at the time of summoning the accused the learned Courts below should have satisfied themselves with regard to the desirability for summoning the accused. He has further contended that from the perusal of the order itself, it would show that prima facie no such case was made out for summoning the petitioner, therefore, both the orders passed by the learned Additional Sessions Judge, Jhajjar dated 07.06.2018 (Annexure P-7) and order dated 08.12.2016 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Jhajjar are erroneous and are liable to be quashed.

I have heard the learned counsel for the petitioner and perused the order dated 08.12.2016 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Jhajjar and the order passed by the learned Additional Sessions Judge, Jhajjar dated 07.06.2018 (Annexure P-7). Perusal of the Orders would show that in the present case during the course of prosecution evidence, the complainant Ajit deposed as PW-1 and Bhavna deposed as PW-2 by stating that the accused Parveen who is the petitioner in the present case has actively participated in the occurrence and specifically stated that the accused Parveen caused injury to PW-1 and PW-2 alongwith the accused Sachin etc. The petitioner also figured in the FIR but during the course of investigation, police had kept him in column No.2 of the challan which was presented to the Magistrate under Section 173 Cr.P.C. Learned Additional Chief Judicial Magistrate, Jhajjar has specifically observed that in the present case, both the witnesses namely, Ajit and Bhavna have deposed regarding the involvement of the petitioner Parveen, that the injury attributed to her have been caused to Bhavna and

the same has also been corroborated from the MLR and therefore, the plea which the petitioner has taken that he is totally innocent can not be decided at this stage. Therefore, petitioner has to face the trial after the same being summoned for the same.

Perusal of the order passed by the learned Additional Sessions Judge, Jhajjar would also show that it has been specifically observed that on the perusal of the FIR the complainant had specifically stated that the petitioner has caused injury to Bhavna and the MLR of Bhavna also corroborates the version of the complainant. The mere fact that the petitioner was exonerated by the police and was kept in column No.2 would not fully exonerate the petitioner and for that purpose in view of the statement made by PW-1 and PW-2 he has to face trial in this regard. It is not only statements of PWs which has been considered by Trial Court but other evidence such as MLR has also been considered while summoning the accused.

It is a settled law that while summoning the accused, the Court would always exercise its judicial mind while exercising its discretion and would take into consideration all the relevant facts before issuing a process of summoning. It is also important that in order to ensure that the guilty does not escape the proper trial, if more than prima facie evidence is available on the record to summon an accused under Section 319 Cr.P.C then the Court should always exercise its judicial mind and would summon the accused to face the trial.

In view of the above, no error can be found in the impugned orders dated 08.12.2016 (Annexure P-6) passed by learned Additional Chief Judicial Magistrate, Jhajjar and order dated 07.06.2018

passed by learned Additional Sessions Judge, Jhajjar (Annexure P-7) and no interference is called for by this Court in the present case.

In view of the above, the present petition is dismissed. However, nothing stated hereinabove, shall be construed to be an expression on the merits of the case.

23rd January, 2020

Shivani Kaushik

**[JASGURPREET SINGH PURI]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*