

RAHUL

..... Petitioner

V/S

STATE OF HARYANA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Abhimanyu Kalsy, Advocate for

Mr. Manoj Kumar Palwal, Advocate for respondent No.2.

SUDIP AHLUWALIA J. (ORAL)

[1] The petitioner, who is the complainant-victim in the criminal trial pending before the Ld. Additional Sessions Judge, Faridabad, is aggrieved by the impugned order dated 01.02.2016 (Annexure P-1) passed by the said Court, by which his application under Section 319 of the Code of Criminal Procedure was dismissed. In that application, the petitioner had sought summoning of the present respondent No.2, namely Dashrath, to face trial as according to him, the said respondent was also involved in the alleged occurrence in which the petitioner was assaulted and thrown from the roof of his house and then again beaten up.

[2] Name of this respondent as one of the culprits was mentioned in the original FIR but after investigation, it was mentioned in the challan submitted against the other accused persons (Annexure P-5) that “supplementary challan will be prepared and submitted in Court upon arrest of accused- Dashrath.” But no such supplementary challan was apparently submitted.

[3] During the course of trial, the petitioner reiterated his allegations

against the accused persons including respondent No.2. His application was nevertheless dismissed by the Ld. Court below, as it was of the view that “in the present case, there is neither specific allegation against the accused-Dashrath nor any specific role has been attributed to him, even in the evidence during trial.”

[4] This Court has gone through the deposition of the complainant examined as PW-8 from the prosecution side. He had in his examination-in-chief deposed as under:-

“Thereafter when I was returning to my house, situated in Subhash Colony, Ballabgarh, in the way near Bansal Halwai Shop, some persons namely Dashrath, Ravinder, Lalu, Nitin and Jagdish along with 2 or 3 other persons armed with iron rods and dandas. They intercepted my way. Ravinder gave an iron blow on my back. Thereafter I rushed to Gopal Hawaldar house roof to save myself. Then all the boys chased me and came at the roof. All of them extorted let I would be killed and then they thrown me from the roof on the ground. All of them came on the ground. They caused injuries with their respective weapons on my both legs and then they threatened to kill me.”

[5] PW-2 namely Nand Kishore in his deposition stated as under:-

“When we reached near Bansal Sweets Shop then Ravinder, Dashrath, Lalu, Jagdish & Nitin are already standing at the Bansal Sweets Shop. They intercepted our way and they also carried iron rods and baseball dandas in their hands. Ravinder gave a iron rod blow to Rahul's back, after that Rahul run away. All accused persons also chased Rahul to inflict injuries. Rahul for save his life entered in the house of one namely Gopal Hawaldar and climb on roof of his house. All the accused persons also climb on the roof of Gopal Hawaldar's house to chase the Rahul. They intentionally for causing death of Rahul thrown him from

the roof at the floor. All the accused persons came down and saw the Rahul and find that he is still live. Then they started beating Rahul by their respective iron rods and baseball danda on both the legs of Rahul.”

[6] It may be recalled that even in the original FIR the complainant-victim had specifically mentioned that the respondent-Dashrath, alongwith Ravinder, Lalu and their other associates with intention to kill, had held him from his hands and legs and thrown him from the roof after which all those persons came down and Ravinder raised lalkara to teach a lesson to him and to kill him after which he alongwith Dashrath, Lalu and their other associates, who were armed with iron rods and baseball danda, gave injury on his feet because of which he suffered fractures on both his feet. He further added that Ravinder, Dashrath, Lalu and their other associates had threatened him while going back that in case he remains alive they will kill him in future.

[7] In the opinion of this Court, the evidence by way of above material on record would appear to be more than sufficient to warrant summoning of respondent No.2 for facing trial under Section 319 Cr.P.C., and adequately meets up the standard prescribed by the Apex Court in “**Hardeep Singh Vs. State of Punjab and others, 2014 (1) R.C.R. (Criminal) 623.**”

[8] For the aforesaid reasons, the impugned order passed by the Ld. Trial Court is set aside, with a direction that it shall now summon the respondent No.2 to stand trial.

(SUDIP AHLUWALIA)
JUDGE

04.03.2020
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No