

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

CRM-M-16300-2021(O&M)

Date of decision:-20.4.2021

Kapil Dev

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Harish Bhardwaj, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 482 Cr.P.C. has been filed by petitioner Kapil Dev seeking quashing of order dated 13.9.2019 passed by Judicial Magistrate Ist Class, Panipat vide which the petitioner has been summoned to face trial in FIR No.40 dated 12.2.2017, under Sections 323, 324, 506, 34 IPC, registered with Police Station Israna, District Panipat as well as order dated 18.8.2020 passed by Additional Sessions Judge, Panipat vide which the revision petition filed by the petitioner has been dismissed.

Briefly stated, the facts of the case as per the prosecution story are that complainant Omi Devi widow of Sh.Ramesh Kumar, resident of village Mandi, Tehsil Israna, District Panipat got her statement recorded with the police contending therein that her husband Ramesh Kumar was murdered on 12.8.2016 by her relatives Inder son of Hari Singh, Rohtash son of Hari Singh, Vikas and Varun sons of Inder,

Kapil Dev (present petitioner) and Saroj regarding which FIR No.196 was got registered with Police Station Israna; there has been a dispute regarding landed property between the parties; on 10.2.2017 Inder had come to village and stayed at the house of Suresh; in the morning Inder, Suresh, Rakesh and Kapil Dev had attacked the complainant and her son Deepak; at that time Inder and Kapil Dev were having iron rods, Rakesh was having a knife; the assailants had trespassed in the house of the complainant and caused injuries to her and her son there; the injured were hospitalized; they were medico legally examined. The matter was reported to the police, on the basis of which formal FIR was recorded. The investigation in the case started. As a result of investigation, the police had not found involvement of Kapil Dev (present petitioner) and Inder in the incident and as such had not forwarded them to face trial. However, during the course of trial against the other accused, the complainant had filed an application under Section 319 Cr.P.C. for summoning of Inder and Kapil Dev as additional accused, which was allowed by the trial Court vide order dated 13.9.2019. Kapil Dev (present petitioner) had filed a revision petition against the impugned order, which was however dismissed by Additional Sessions Judge, Panipat vide order dated 18.8.2020.

Still feeling aggrieved, Kapil Dev has filed the instant petition.

I have heard the learned counsel for the petitioner besides going through the record and I do not see any reason to accept the petition by way of exercising powers under Section 482 Cr.P.C.

Section 482 Cr.P.C. deals with inherent powers of the High

Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The orders passed by the Courts below are quite detailed especially order passed by learned Additional Sessions Judge, Panipat while dismissing the revision petition filed by the present petitioner Kapil Dev. He has given sufficient reasons for dismissing the revision petition and upholding the order passed by the trial Court. The law on the subject has been discussed in detail including the relevant judgments i.e. Hardeep Singh Versus State of Punjab 2014(3) SCC 92, Vikash Versus State of Haryana and others, 2016(3) RCR(Criminal) P&H 609, Laxmi Versus State of Haryana & Anr., 2018(1) RCR(Criminal)987 have been taken into view while observing that the trial Court was justified in allowing the application and summoning Kapil Dev and Inder as additional accused to face trial along with the accused forwarded by the police to face trial. For ready reference para No.11 of the order passed by learned Additional Sessions Judge, Panipat is being reproduced as under:

11. In view of law laid down in the above reported cases, if the case in hand is perused, it comes out that there is more than a prima-facie evidence against the revisionist, on the basis of which he could have been summoned on application under section 319 Cr.P.C. The complainant in his complaint moved to the police has specifically named the revisionist as one of the assailants and

attributed him specific role in the commission of offence. He had again reiterated the version while appearing in the witness box in the present trial. Although the police had found the revisionist innocent during investigation but there is no material on the trial Court record which could show as to on what basis he was found innocent. A perusal of the trial Court record shows that when accused Rakesh and Sohan were arrested and their judicial remand was sought, the police had specifically mentioned the role of revisionist Kapil and shown an iron rod in his hand with which he had attacked the complainant party. The witness of prosecution, namely, Deepak had also accused Kapil as one of the offenders. There is also a statement under section 161 Cr.P.C. of PW Dharambir, who had stated that on enquiry, he found that Kapil was falsely implicated in the case but there is no basis of the said enquiry. Said witness was not present at the spot and his statement that he had enquired and found that Kapil was not present at the spot cannot be believed, as this stage. Thus, there was more than a prima-facie material against the revisionist Kapil and the trial Court had rightly considered the material available on the case file and had rightly summoned the revisionist. I do not find any illegality and perversity in the impugned order passed by the trial court.

I find that the impugned orders are detailed and well reasoned. They do not appear to be suffering from any illegality or infirmity much less apparent on the face thereof. The orders are

certainly not perverse or passed in an arbitrary manner. There is no reason to interfere with the impugned orders by way of exercising powers under Section 482 Cr.P.C.

Finding no merit in the petition, the same stands dismissed.

.

20.4.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No