

In virtual Court

CRR-1692-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1692-2017 (O&M)
Date of decision: 22.09.2021

Jafar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This petition is pending since 2017. Vide order dated 19.07.2017, the trial Court was directed to proceed with the trial, but not to pronounce the final judgment.

CRM-31223-2021 has been filed with a request to extend the interim order dated 19.07.2017, as the trial is at the stage of final arguments and pronouncement of judgment.

In view of judgment of the Hon'ble Supreme Court in **Asian Resurfacing of Road Agency Pvt. Ltd. and anr. Vs. Central Bureau of Investigation, 2018 (2) RCR (Crl.) 415**, no ground for extending the stay is

made out and the petitioner is directed to argue the main case today itself.

Learned counsel for the petitioner has submitted that the FIR was registered on a complaint given by petitioner Jafar, who appeared as PW1, with the allegations that on 10.10.2014, he along with Samshudeen, Jamshed, Khalil and other family members were present at his house, where Haroon, Samim, Hakmudeen, Abdul Jabar, Akbar, Dulla @ Nawabdeen and Arshad entered the house, abused and started beating them. The detail of the injuries is given in the FIR as well as in the statement. Later on, an application was filed under Section 319 Cr.P.C. for summoning Haroon, Shaminam, Abdul Jabbar and Arshad, who were found innocent during the investigation and were kept in column No.2 in the report under Section 173 (2) Cr.P.C.

Learned counsel for the petitioner has further submitted that as per statement of PW1, specific injuries have been attributed to aforesaid four persons. Injury No.1 is attributed to Haroon, who inflicted an injury on his head and injury No.2 is attributed to Shaminam, who hit a lathi on his right shoulder.

The trial Court, vide order dated 03.02.2017, dismissed the application by making the following observations: -

“...5. Appreciating the matter on record it can be observed that presently three accused are facing trial i.e. Hakmudeen, Akbar and Nawabudeen while as per the police report filed Haroon, Jabbar, Shaminm, Arshad were found innocent. The charge stands framed against present three accused for offence under sections 323/34,324/34,325/34, 452/34 and 506/34 IPC. In regard to

offence under section 324/34 IPC it can be observed that injury of pharsa blow is attributed to Haroon and not to any other accused facing trial. The matter on record suggested that on 15.1.2015 when complaint was filed by present complainant Jafar it was sent for registration of case and investigation under section 156 (3) Cr.P.C. there upon police had registered the case and investigated. There are statements of witnesses Jamshed, Khalil, Khalid, Kamrudeen, Sarifan, Rameej recorded under section 161 Cr.P.C except for Rameej all others have mentioned about presence of Haroon, Samim, Hakmudeen, Abdul Jabbar, Akbar, Arshad, Gullu @ Nawabudeen at the time of occurrence. However, with regard to incident of 10.10.2014 the statement of these witnesses have been recorded on 21.1.2015 which indicate possibility of interpolation. At the same time the manner in which the incident is said to have occurred and MLRs indicate that there is quite grave possibility of injuries being suffered by present injured Jaffar and Jameshed while giving injuries to the opposite party for which they are facing trial.

6. As this court has framed charge under section 324 IPC with regard to injury of Jafar being caused by sharp edged weapon which is not attributed to any of the accused facing trial but to Haroon court considers it appropriate to summon Haroon alone as an additional accused, as evidence against him during

investigation and trial was consistent and there is nothing in police report to indicate the basis on which this accused was found innocent while claiming that this injured complainant Jafar had suffered injury under section 324 IPC also. As with regard to other accused the grounds are insufficient warranting their summon under section 319 Cr.P.C.

7. As a consequence of above discussion, the application is allowed to the extent that accused Haroon son of Muhar Khan resident of Kumarhera P.S. Bahin is liable to be summoned as an additional accused in the present case for facing trail with other co-accused. So the summon to the accused be issued for next date of hearing i.e. 21.2.2017.”

Learned counsel has next argued that the trial Court has not appreciated the fact that the victim has specifically attributed injuries to aforesaid four persons, however, the same have not been summoned by the trial Court.

In reply, learned State counsel has submitted that names of aforesaid four persons surfaced in the statement recorded under Section 161 Cr.P.C., after a period of about three months, as the incident is of 10.10.2014, whereas the statements of the witnesses were recorded on 21.01.2015, therefore, there is every possibility that in order to implicate more persons, the complainant side has named the aforesaid four persons to be the accused. It is further submitted that during the investigation, they were found to be innocent,

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as nothing has come against them and it is only after a long lapse of time, their names surfaced in the statement recorded under Section 161 Cr.P.C.

After hearing learned counsel for the parties, I find that present case is not covered by guidelines of the Hon'ble Supreme Court in **Hardeep Vs. State of Punjab, 2014 (1) RCR (Crl.) 623.**

Accordingly, the present petition is dismissed.

**[ARVIND SINGH SANGWAN]
JUDGE**

22.09.2021
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No