

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

**CRM-M-26210-2019**

**Date of decision:13.10.2021**

Rinku

...Petitioner

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present:- Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, D.A.G. Haryana.

Mr. Karan Singh, Advocate for respondent No.2.

**HARNARESH SINGH GILL, J. (ORAL)**

Prayer in this petition is for quashing of the order dated 17.05.2019 (Annexure P-9) passed by learned Sessions Judge, Karnal, vide which the revision petition preferred by the petitioner has been dismissed and the order dated 20.03.2019 (Annexure P-7) passed by the trial Court, summoning the petitioner as an additional accused to face the trial under Sections 323 read with Section 34 IPC and 506 IPC alongwith those already before the court, has been upheld.

Learned counsel for the petitioner submits that the complainant in his statement recorded under Section 161 Cr.P.C. did not attribute the alleged injury to the petitioner. It is further submitted that the Courts below have not taken into consideration that while appearing before the trial Court, PW6-Surinder Kumar, has improved his version,

by deposing that Rinku had given injury on the finger of his right hand. Learned counsel further contends that the earlier an application under Section 319 Cr.P.C. seeking to summon the petitioner as an additional accused was dismissed on 25.01.2018 and the said order has since attained finality. Thus, allowing the second application under Section 319 Cr.P.C., for summoning the petitioner as an additional accused, at this stage, is totally illegal and against the settled law. On this premise, the learned counsel submits that the impugned orders may be set aside and the application filed by the prosecution for summoning the petitioner as an additional accused, may be dismissed.

In support of his contentions, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in case titled as 'Hardeep Singh Vs. State of Punjab and others' *2014(3) SCC 92*, wherein it has been held that in order to summon an accused under Section 319 Cr.P.C., there must be more material than a prima facie case.

On the other hand, learned State counsel and learned counsel for respondent No.2 submit that the petitioner had actively participated in the occurrence and a specific role has been attributed to him in the FIR as well as in the statement of the complainant under Section 161 Cr.P.C. It is further submitted that keeping in view the specific nature of the allegations against the petitioner, no fault could be found with the impugned orders. Reliance is placed upon judgment of the Hon'ble Apex Court in Criminal Appeal No. 875 of 2021-Manjeet Singh Vs. State of Haryana and others, decided on 24.08.2021.

I have heard learned counsel for the parties.

Perusal of the record would show that initially, the charges were framed on 09.10.2017 and after the examination of five prosecution witnesses, the prosecution had filed an application under Section 319 Cr.P.C. for summoning of Dharam Pal, Rinku and Sheela as additional accused. However, vide order dated 25.01.2018, the learned Magistrate dismissed the said application by noticing that Surinder Kumar, upon whose the alleged injury was inflicted by the petitioner, had not been examined yet. After the completion of examination-in-chief of complainant and deposition of two more prosecution witnesses, another application under Section 319 Cr.P.C. was filed for summoning of the petitioner, which has been allowed by the trial Court vide order dated 20.03.2019. Aggrieved there-against, the petitioner unsuccessfully preferred a revision petition before learned Sessions Judge, Karnal.

In the present case, the petitioner was specifically named in the FIR as well in the statement of the complainant recorded under Section 161 Cr.P.C. Complainant-Surinder Kumar, while stepping into the witness box as PW6, also deposed that the petitioner, who was present at the spot, had caused an injury on the finger of his right hand.

Learned Sessions Judge, while dismissing the revision filed by the petitioner, noticed that the investigating agency had cited no reason as to why Rinku was found innocent particularly when there were specific allegations against him; that there was no alibi which had been believed by the investigating agency, and that his case was not different from that of Om Parkash and Vinod, who were arraigned accused.

In the considered opinion of this Court, both the Courts below have not committed any illegality while passing the impugned orders.

Hence, the present petition is dismissed.

13.10.2021  
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(HARNARESH SINGH GILL)  
JUDGE

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|-----------------------------------|---------------|
| <i>Whether reasoned/speaking?</i> | <i>Yes/No</i> |
| <i>Whether reportable?</i>        | <i>Yes/No</i> |