

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

CRM-M-30655-2018
Reserved on: 29.11.2022
Pronounced on: 30.11.2022

Vijay Pal

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. DPS Bajwa, Advocate, for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Mr. Shvetanshu Goel, Advocate, for respondents No. 2 to 5.

HARNARESH SINGH GILL, J.

Challenge in the present petition is to the order dated 13.12.2017 passed by the learned Additional Sessions Judge, Kaithal, thereby setting aside the order dated 07.09.2017 passed by the learned Judicial Magistrate, Ist Class, Kaithal. Vide order dated 07.09.2017, the learned Magistrate had, while allowing an application under Section 319 Cr.P.C., summoned respondent Nos. 2 to 5 to face the trial in FIR No. 277 dated 02.09.2015 under Sections 148, 149, 323, 506 and 341 IPC, at Police Station Pundri, District Kaithal.

Learned counsel appearing for the petitioner would vehemently argue that in the FIR itself, the complainant had specifically named all the accused and the injuries inflicted by them; that even in his statement under Section 161 Cr.P.C., the said version was reiterated; that the version contained in the FIR

was duly supported by the medical evidence; that due to influence of the accused, the investigating agency had declared respondents No. 2 to 5 as innocent and placed them in Column No.2 of the challan; that the petitioner and his mother while appearing in the Court reiterated the version contained in the FIR and accordingly, the application under Section 319 Cr.P.C. was filed; that the trial Court vide order dated 07.09.2017 had allowed the said application, but in revision, the learned Additional Sessions Judge, Kaithal, has set aside the said order and dismissed the application under Section 319 Cr.P.C.

While assailing the order dated 13.12.2017, learned counsel for the petitioner would vehemently argue that the said order is contrary to the facts and circumstances on record and moreover, the entire medical evidence has been ignored by the learned Additional Sessions Judge, Kaithal.

On the other hand, learned counsel for respondent Nos. 2 to 5 argues that the impugned order is perfectly legal; that the learned Revisional Court, while passing the said order, has taken into consideration all the material aspects and has relied upon the medical evidence on record and that as a matter of fact, respondents 2 to 4 – Rakesh, Harikesh and Sushil Kumar, were on their respective duties in the defence and they were falsely implicated by the complainant.

I have heard the learned counsel for the parties.

In order to sustain the challenge to the impugned order, it would be just and relevant to refer to the medical evidence. PW7 is Dr. Vikash Bhatnagar. The said Doctor, while appearing in the Court testified that the injury on the hand of the petitioner

could be caused by friendly hand and the same could also not be ruled out by falling on a hard surface. He further deposed that if the injury was caused with the Gandasi, then the injuries on the other adjacent fingers would also occur and that while taking his opinion, no weapon was shown to him.

As per the facts on record, a cross case was also registered against the petitioner and his father Hari Pal. This cross case was registered on the statement of Mohinder Singh to the effect that petitioner and his father Hari Pal had abused Sheela Devi wife of Mohinder Singh and his Bhabhi (sister-in-law)-Kamla Devi and gave beatings to them with Dandas. MLRs on the said injured were also conducted and after investigation, Vijay Pal and Hari Pal were arrested in the matter.

As would appear from the order passed by the Additional Sessions Judge, Kaithal, the MLR revealed that out of seven injuries sustained by the complainant, four injuries were reddishness, one as abrasion, one injury as lacerated wound and one injury on the tip of index finger of the left hand and that the allegations of the complainant that the accused had given him four gandasi blows and four lathi blows, did not find any support from the MLR. It was further found that it was beyond comprehension as to how eight persons, including, three army personnel, armed with gandasis and lathis would give single blow each with gandasi and lathi to the complainant one by one.

Respondent No.2 to 4 are serving army personnel. As noticed above, a cross-case against the petitioner and his father, was got registered on the statement of accused-Mohinder Singh. So far as the involvement of the respondent Nos. 2 to 4 is concerned,

it could not be shown that they had been on leave and were present at the place of occurrence. Still further, false implication of the said persons, being members of the same family, cannot be ruled out.

No other point has been urged.

In view of the above, I do not find any merit in the present petition. Hence, the same is hereby dismissed.

30.11.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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