

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

225

CRR-1213-2018 (O&M)

Date of Decision: 31.08.2022

Amrit Singh & Anr.

... Petitioners

VS.

State of Haryana & Anr.

... Respondents

CRR-1719-2018 (O&M)

Hardeep Singh

... Petitioner

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. SK Jindal, Advocate
for the petitioners (in CRR-1213-2018)
Mr. Kanwar Satbir Singh
for the petitioner (in CRR-1719-2018)

Mr. Surender Singh, AAG Haryana

Mr. Amit Khatkar, Advocate for respondent No.2

Sandeep Moudgil, J. (Oral)

This order shall dispose of **CRR-1213-2018 (Amrit Singh & Anr. Vs. State of Haryana & Anr.)** and **CRR-1719-2018 (Hardeep Singh vs. State of Haryana & Anr.)** since the petitioners in both the cases are accused and have been summoned under Section 319 CrPC vide impugned order dated 19.02.2018 in case FIR No. 432 dated 02.09.2016 under Section 307/323/341/506 IPC registered at Police Station Safidon. For the purpose of order, CRR-1213-2018 is treated as the lead case.

On the basis of statement made by respondent No.2 Karamjeet Singh, FIR No. 432 dated 02.09.2016 under Section 307/323/341/506 IPC

was registered at Police Station Safidon. As per MLR, respondent No.2 received six injuries out of which one was declared to be dangerous to life. During investigation, Hardeep Singh, Amrit Singh and Kulbir Singh (petitioners herein) were found to be innocent. However, on an application under Section 319 CrPC filed by respondent No.2 on 29.01.2018, the petitioners were summoned as additional accused vide impugned order dated 19.02.2018. Hence these petitions have been filed by the petitioners.

The primary contention of the petitioners is that the person who is to be added as an accused under Section 319 CrPC is necessarily required to be hearing before being added as held by the Hon'ble Supreme Court in **Jogendra Yadav and anr. Vs. State of Bihar and Anr. (2015) 9 SCC 244.** However, the petitioners were not heard before allowing the application under Section 319 CrPC. It is further contended that the motive of the petitioners to cause any injury to respondent NO.2 is missing in the FIR as is evident from the cross-examination of respondent No.2 as PW1.

Learned counsel draw attention of this Court that another FIR No.430 dated 02.09.2016 was registered at the instance of Hardeep Singh (petitioner) against respondent No.2 and other persons for causing injuries to him and his brother Pargat Singh on the same date, time and place, to contend that some other incident might have taken place between respondent no.2 and Pargat Singh and the petitioners have no motive or complicity with them. Reliance has been placed on a Constitution Bench decision of the Hon'ble Supreme Court in **Hardeep Singh vs. State of Punjab & Ors. 2014 (1) RCR (Crl.) 623** which held that the power of Section 319 CrPC is a discretionary

and extraordinary power and it is to be exercised sparingly and when circumstances so warrants on the basis of strong and cogent evidence.

Learned State counsel refers to the deposition made by the complainant – the injured, respondent NO.2 and submits that the names of Amrit Singh, Kulbir Singh and Hardeep Singh – the petitioners were having lathies in their hand. Meaning thereby that specific role has been attributed to the petitioners.

I have heard learned counsel for the parties and gone through the record and am of the considered view that these petitions ought to fail.

I say so for the reason that the deposition sheet of witness No.1 Karamjeet Singh specifically mentioned that the petitioners were having lathies. That means the complainant – respondent No.2 has specifically identified the petitioners to have participate in the commission of offence. However, that is a matter of trial. In any case, learned summoning court has held that the testimony of PW1 who himself is an injured and eye witness to the alleged incident has attributed the injuries to the accused – the present petitioners. The learned Summoning Court had sufficient reasons to exercise the powers under Section 319 CrPC. Therefore, I see no fault in the order dated 19.02.2018 passed by the learned Additional Sessions Judge, Jind.

Dismissed.

Pending application(s), if any, also stands disposed of.

31.08.2022

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No