

**CRR-1663-2022 &
CRR-1457-2021**

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

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**CRR-1663-2022 &
CRR-1457-2021
Date of decision: 10.10.2022**

NANAK RAM & ANR. ...Petitioners

Versus

STATE OF PUNJAB & ANR. ...Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.K.S. Brar, Advocate for the Petitioners.
Mr. Rajiv Verma, DAG, Punjab.
Mr. Rajat Dogra, Advocate for
Mr. K.S. Brar, Advocate for Respondent No. 2.

SANDEEP MOUDGIL, J.

Before proceeding further on the merits of the case, I would like to mention about the note dated 25.08.2022 of the Registry of this Court, whereby it has been brought to the notice of this Court that Mr. R.K.S. Brar, Advocate for the Petitioners had earlier filed a similar/identical revision petition bearing CRR-1457 of 2021 for the same cause of action and relief. As such, the present petition is the duplicate petition of CRR-1457 of 2021, and no order needs to be passed therein.

In order to avoid any duplicacy, the initial facts have been derived and taken into consideration by this Court from the instant revision petition, CRR-1663-2022.

The instant criminal revision petition has been preferred against the judgment and order dated 22.09.2021 passed by learned

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Sessions Judge, Ludhiana, whereby application under Section 319 Cr.P.C. for summoning the additional accused-petitioner had been allowed.

Further, in order to understand and clarify the issue, this Court has derived the factual position from the earlier revision petition bearing CRR-1457-2021 and the facts, so emerge, from that petition are that on the basis of statement of Makhan Singh PW-1, FIR No. 119 dated 11.09.2020 was registered at Police Station Meharban, District Ludhiana, under Section 302 IPC. The statements of the witnesses under Section 161 Cr.P.C. were recorded.

After the completion of the investigation, challan was presented in the Court and charges were framed. However, the learned APP moved an application under Section 319 Cr.P.C. for summoning the petitioners as additional accused which was allowed by the court of learned Sessions Judge, Ludhiana, vide order dated 22.09.2021.

Hence, the present revision petition has been filed against the order dated 22.09.2021 passed by learned Sessions Judge, Ludhiana (for short 'trial Court').

Learned counsel for the petitioner has contended that the trial Court has gravely erred in allowing the application under Section 319 Cr.P.C. as the same is in violation of Article 20 of the Constitution of India. It is asserted that allowing of application under Section 319 Cr.P.C. amounts to violation of fundamental rights of the petitioner and filling up the lacuna by the prosecution. The assertion is that running of clip in the court without verifying its veracity and truth from Forensic Laboratory is against

the rule of natural justice.

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Learned State counsel assisted by learned counsel for respondent No.2 has contended that the accused persons were directly involved in the present case and the complainant had categorically stated regarding the involvement of the accused persons in his examination-in-chief. Moreover, specific role has been attributed to them and there was sufficient material on record to summon those persons as additional accused.

I have heard the learned counsel for the petitioners who contended that during the trial Makhan Singh appeared as witness on 12.08.2021 and partially got recorded his statement. Though the complete statement of the witness Makhan Singh was not recorded, therefore, trial Court had illegally entertained the application under Section 319 of Cr.P.C and allowed the same.

Further reference is made to the following discussion/observations made by the trial Court in its order under challenge:-

“8. In this case, the complainant Makhan Singh while appearing as PW-1 has specifically deposed that on 11.09.2020 at about 8.00 AM, his son Gurpreet Singh had gone to irrigate their paddy fields. He has further deposed that he and his cousin Rajvir Singh (son of Tayaji) were going on morotcycle at about 10.00 AM to deliver tea at their fields and from a distance of about 40/50 meters from the fields, they saw that Nanak Ram and Jagdeep alias Bhiri had held his son from his arms and Sarup Ram carrying a kahi in his hand it the same on his head for about 2/3 times. He has deposed that he raised alarm and told them not to do so and by the time they reached at the spot, all the three accused fled

from the spot alongwith the kahi. It is pertinent to mention here that Ld. Addl. P.P. moved application under section 311 Cr.P.C. for placing on record Pen drive containing video clip of the investigating officer who briefed that Nanak Rma and Jagdeep Ram alias Peeri were involved in murder of Gurpreet Singh. Said application has been allowed by this court and on seen the video clip in question, it is noted that the investigating officer while addressing media persons had specifically stated that the main accused Sarup Ram had been arrested, but his accomplices Nanak Ram and Jagdeep Ram alian Peeri were yet to be arrested. The question arises that what prompted the investigating officer at the first instance to make a statement that Nanak Ram and Jagdeep Ram @ Peeri accomplices of Sarup Ram in committing murder of Gurmeet Singh. Though the genuiness of the said video clip shall be ascertained after the prosecution has led evidence, yet at this stage, prima facie evidence has appeared against Nanak Ram and Jagdeep Ram alias Peeri.

9. As such, Nanak Ram son of Jagira Ram and Jagdeep Ram alian Peeri son of Nanak Ram, both residents of village Kadian Kalan, P.S. Meharban, Ludhiana are required to be summoned as additional accused, so as to make them to face the present trial.”

In view of the detailed discussion hereinabove, this Court finds no reason to interfere with the well reasoned order dated 22.09.2021 passed by the Court below, being based on the judgments of Hon’ble Apex Court.

Since the present petition is duplicate one of CRR-1457-2021, therefore, no separate order is required to be passed. The same may also be treated as dismissed on the same terms. However, Registry is directed to place a copy of order of instant case on the records of said file also.

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Furthermore, the interim orders or directions, if any, issued by this Court in the said petition stand vacated/withdrawn.

With the above observation and directions the present petition is dismissed and the order dated 22.09.2021 passed by learned Sessions Judge, Ludhiana, stands affirmed.

With the decision of the present petition all the applications pending for consideration stand disposed off.

**OCTOBER 10, 2022
Sham**

**(SANDEEP MOUDGIL)
JUDGE**

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