

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

233 - CRR-977-2021

Date of Decision: 12.12.2022

Sanjay

... Petitioner

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. JS Hooda, Advocate for the petitioner

Mr. Surender Singh, AAG Haryana

Mr. Tanmoy Gupta, Advocate for respondent No.2

Sandeep Moudgil, J.

This criminal revision petition has been preferred by the petitioner seeking to set aside the order dated 09.01.2020 passed by Addl. Sessions Judge, Palwal, vide which the trial court has dismissed the application under Section 319 CrPC filed by the petitioner for summoning respondent No.2 Balraj Singh to face trial as an additional accused.

Counsel for the petitioner averred that the said respondent No.2 had also participated in the occurrence and caused injuries to the injured and his name was mentioned in the FIR as well as in the statements of witnesses u/s 161 CrPC but police did not arrest him. It is submitted that there is sufficient, *prima facie*, evidence available on the record, to proceed against the respondent No.2. It is alleged that respondent No.2, gave *fawra* blow on the head of Kunti.

2. On the other hand, learned counsel for respondent No.2 averred that respondent No.2 is a most educated person of the family. He has no

concern with the alleged occurrence whatsoever, and he was rightly found innocent by the police investigating agency.

It is surprising that the petitioner has opted to seek the summoning of only one additional accused respondent No.2 Balraj despite the fact that the investigating agency, after making thorough investigation into the matter, found three assailants as innocents including Deepak and Singh Raj. The proposed respondent No.2 is stated to be a qualified person and present application appears to have been filed by the petitioner to hoodwink respondent No.2, who is the son of main accused Ram Parshad. In this case, total three assailants were found involved including Ram Parshad and Karan, who are facing trial under Sections 323, 324, 307, 201, 506, 34 IPC, whereas their third aide Jatinder, who was found juvenile, has been facing inquiry before the Principal Magistrate, Juvenile Justice Board, Palwal.

A perusal of the *ipse dixit* statements made by PW1 Sanjay and PW2 Prem Raj, in a mechanical manner, shows that the name of proposed respondent No.2 has been involved. Their statements are nothing but reiteration of their earlier stand before the police investigating agency.

In the present case, there is a cross-version of the prosecution story, as cross-complaint has been filed by Karan Singh against the complainant party, which is stated to be pending before the trial court. Further, there is no other additional evidence available on the record to summon the present respondent No.2 to face his trial, therefore, the present application has been rightly dismissed by the trial court.

The trial court did not find any cogent and convincing evidence on the file to summon respondent No.2. The Hon'ble Supreme Court in case

titled as ‘**Babu Bahi Bhima Bahi Bokhiria and another Vs. State of Gujrat and others, reported as 2014 R.C.R (Crl) at page 915**’ held that a person can be summoned under section 319 Cr.P.C as additional accused only where strong and cogent evidence occurs against him, from the evidence led before the court, and when no specific role is attributed to the proposed accused, then he cannot be summoned under section 319 CrPC. Moreover, when the allegations against the person are general in character, he cannot be summoned under Section 319 Cr.P.C to face trial.

In view of the above discussion, this Court do not find any illegality or infirmity in the order passed by the trial court.

Dismissed.

12.12.2022
V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No