

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

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CRM-M-42533-2022 (O&M)

Date of Decision: 15.09.2022

SATYAVEER @ SAT BIR

...Petitioner

Versus

STATE OF HARYANA AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sudhir Rana, Advocate, for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Challenge is to the order dated 01.09.2022 passed by the learned Additional District and Sessions Judge, Rewari, vide which the revision preferred by the petitioner against the order dated 17.11.2021 passed by the learned Judicial Magistrate, 1st Class, Rewari, summoning him as an additional accused, was dismissed.

Learned counsel for the petitioner submits that though the petitioner was specifically named in the FIR, yet in a inquiry conducted by the Deputy Superintendent of Police, it has been found that, at the time of the alleged occurrence, the petitioner was in Rajasthan and that on the basis of the mobile tower location, the petitioner was declared innocent and kept in column No.2. He further submits that thereafter, the complainant moved an application under Section 319 Cr.P.C. for summoning Satyaveer (the petitioner), Monu (petitioner's son), Sheela (petitioner's wife), Sunil, Shakuntla and Priya, as additional accused, which was partly allowed by the learned Magistrate qua petitioner only.

Learned counsel for the petitioner submits that the Courts below have miserably failed to appreciate the evidence on record; the inquiry report of the Deputy Superintendent of Police concerned and the arguments raised on behalf of the petitioner. It is further submitted that it is well settled by now that in order to summon a person as an additional accused, more than a prima-facie case is required i.e. if the evidence goes un rebutted, it would lead conviction of the person sought to be summoned. However, nothing of the sort was either on record or pleaded and/or proved by the prosecution. Reliance is placed upon the recent judgment of the Hon'ble Apex Court in Sagar vs State of UP and another, 2022 (2) RCR (Criminal) 344 and the judgment of a Coordinate Bench of by in CRR-1820-2016 titled Vikas vs State of Haryana, decided on 15.03.2022.

I have heard the learned counsel for the petitioner and gone through the impugned orders.

A perusal of the record would show that the complainant had, in her statement, on the basis whereof, the FIR was registered, clearly named the petitioner attributing the injury on her head with an axe (*Kulhari*). Such injury was corroborated in the MLR of the complainant-injured as well. The complainant has, in her testimony before the trial Court, reiterated the version contained in the FIR. Besides, PW2-Babu Lal, while appearing in the witness box, has also deposed to that effect.

While passing the impugned orders, both the Courts below have taken into consideration the said aspects. Once, the petitioner was specifically named in the FIR and attributed injury with an axe and such

version stands reiterated in the testimony of the witnesses, including that of the complainant, it cannot be said that there is no beyond prima-facie, case against the petitioner. Thus, in terms of the judgment of the Hon'ble Supreme Court in Hardeep Singh Vs. State of Punjab, (2014)3 SCC 92, no fault can be found with the impugned orders.

The factual position in the judgment of the Hon'ble Apex Court in Sagar's case (supra) and that of the Single Bench of this Court in Vikas's case (supra), being distinguishable from the present case, the same are of no help to the case of the petitioner.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

15.09.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>