

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-270-2023 (O&M)
Decided on : 30.01.2023

Kehar Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CRM-3907-2023

Application is allowed as prayed for and the delay of 13 days in filing the petition is condoned.

Main case

The petitioner is impugning the order dated 12.10.2022 passed by Addl. District and Sessions Judge, Karnal vide which an application moved by the petitioner under Section 319 Cr.PC for summoning Vakil @ Sewak s/o Zila Ram, Tita s/o Biru Ram and Krishna w/o Zile Singh – respondent No.2 herein as additional accused, was partly allowed.

Learned counsel for the petitioner submits that the trial Court gravely erred in declining to summon respondent No.2-Krishna as an additional accused to face trial with the other accused by ignoring the evidence led during trial. Learned counsel further submits that in the occurrence in question, all the accused including respondent No.2

physically assaulted the elder brother namely Suresh Kumar of the complainant. When the petitioner-complainant rushed to the rescue of his brother, the accused did not spare him and inflicted injuries on his person also, as a result of which, he became unconscious and was removed to the hospital. Learned counsel still further submits that despite serious allegations levelled against all the accused including respondent No.2, the investigating agency had erroneously found Vakil @ Sewak, Tita Ram and respondent No.2 – Krishna innocent and placed them in Column No.2. Learned counsel while drawing the attention of this Court to the deposition of injured Suresh Kumar, who stepped into the witness box as PW-2 (Annexure P-3) has urged that the said witness had reiterated the allegations levelled against the accused and had also named respondent No.2 of being an active participant in the occurrence in question by spelling out her role.

Heard learned counsel and perused the relevant material on record.

A perusal of the FIR, which was registered at the instance of the petitioner-complainant, reveals that in the FIR neither had respondent No.2 been named nor any role much less any injury attributed to her in the occurrence in question. It is only while stepping into the witness box as PW-2, injured witness Suresh Kumar for the first time named respondent No.2 and attributed a role to her in the occurrence in question.

The Constitution Bench of the Hon'ble Supreme Court in ***Hardeep Singh Vs. State of Punjab and others : 2014(3) SCC 92*** has categorically laid down that while summoning a person as an accused under

Section 319 Cr.P.C, the evidence required against him would have to be much stronger than a mere likelihood of his involvement, and of a higher quality than what was employed while framing charges.

Admittedly and not disputed by the learned counsel for the petitioner, respondent No.2 was neither named in the FIR in question nor attributed any role and it was only during his deposition as PW-2, injured witness Suresh Kumar, for the first time, named her. Even otherwise, assuming for the sake of arguments that for some inadvertent reason, respondent No.2 had not been named in the FIR in question, a perusal of the deposition of PW-2 reveals that other than her presence at the time of occurrence, no overt act has been attributed to her in the occurrence in question.

This Court thus, has no hesitation in holding that in the absence of any strong much less cogent evidence brought forth during trial, the Court below did not err in declining to summon respondent No.2 to face trial as an additional accused.

Accordingly, the present petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

30.01.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No