

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

CRM-M-32650 of 2017

Date of decision: 26th July, 2023

Vinod Kumar

Petitioner

Versus

The State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. C. S. Bakhshi, Advocate for the petitioner.
Mr. Rajiv Sidhu, DAG, Haryana.
Mr. Parveen Kumar, Advocate for respondents No. 2 to 6

AVNEESH JHINGAN, J (Oral):

1. This petition under Section 482 Cr.P.C. is filed for setting aside orders dated 13.12.2016 and 26.7.2017 dismissing the application under Section 319 Cr.P.C. and the revision respectively.
2. The relevant facts are that the FIR was registered at the instance of Vinod Kumar. The allegations were that on 20.11.2011 grand mother of the complainant was working in the plot situated behind their house when Amit, Rampal and Monu tried to tie their buffaloes on the plot. On objection the accused threatened and left the spot. Later, Amit, Rampal, Mohan Lal, Smt. Rupwati, Devwati, Subhadra, Udaivir and Partap forcibly entered into the house and inflicted injuries on the complainant party. During investigation, Rupwati, Devwati and Subhadra were found innocent. Challan was presented against five accused and they were convicted.
3. During the trial, the petitioner filed an application for summoning respondents No. 2 to 6 (arrayed in this petition) as accused. The application was rejected considering that *prima facie* there was no material

worth acceptance for summoning the additional accused. It was considered that additional aspects of the incident revealed now by the complainant were not part of the final report and as per the complainant these could not be inadvertently mentioned by the police. Further that the complainant had not named Sonu and Kiran (Subhadra wrongly mentioned in the impugned order) in his complaint as active participants. Revision filed by the petitioner was dismissed, hence the present petition.

4. Learned counsel for the petitioner submits that respondents No. 2 to 4 were named in the FIR but were wrongly given clean chit by the police. It is argued that the enquiry report giving clean chit to respondents No. 2 to 4 was not part of the challan.

5. Learned counsel for the private respondents defends the impugned orders.

6. Sonu and Kiran were not named by the petitioner in the complaint, no *prima facie* material was adduced against them. The challenge to clean chit given vis-a-vis Subhadra, Shiv Kumar and Deepwati by the police on the basis of aspects pointed out by the petitioner while arguing the application under Section 319 Cr.P.C. was rightly rejected as these were neither mentioned to the police nor were in challan. There was no basis for summoning additional accused.

7. No case is made out for interference in the impugned orders.

8. The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

26th July, 2023

mk	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No