

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24595-2023
Decided on : 15.05.2023

Dinesh

..... Petitioner

Versus

Randhir & others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sourabh Sheoran, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is seeking quashing of order dated 04.07.2017 (Annexure P-4) passed by learned JMIC, Charkhi Dadri in CrI. Complaint No.67-1C whereby his complaint was dismissed along with all subsequent proceedings.

2. Learned counsel for the petitioner *inter alia* contends that FIR No.10 dated 09.01.2014 under Sections 323, 325, 341 and 34 IPC at P.S. Badhra District Bhiwani was got registered against the respondents for indulging in physical assault and abusive language towards the petitioner and his family. During investigation, challan was presented before the trial Court on 10.02.2014 under Sections 323, 341 and 34 IPC. Learned counsel has further contended that even though there were specific allegations levelled against the respondents by the father of the petitioner in the FIR (Annexure P-1) yet the police had colluded with the respondents-accused and carried out a tainted investigation by presenting challan only against four accused i.e. respondents No.1 to 4. All the

other respondents were erroneously found innocent by the police. Learned counsel has further argued that in the aforementioned facts and circumstances and apparent collusion of the police with the respondents-accused, the petitioner was left with no other option but to file a criminal complaint (Annexure P-3) qua the same occurrence in question wherein again he had reiterated the same allegations, which stood levelled in the FIR in question not only against the four respondents, who had been challaned by the investigating agency but also against the other accused, who had been found innocent during investigation.

3. While drawing the attention of this Court to the impugned order (Annexure P-4) learned counsel has vehemently argued that the Court below had erred in dismissing the complaint in question on the ground that in case the petitioner-complainant was aggrieved on account of the inaction of the police authority in challaning only four accused, he had the liberty to file an application under Section 319 Cr.PC for summoning the accused, who were left out by the investigating officer, as an additional accused. Learned counsel has still further submitted that the Court of learned Addl. Sessions Judge, Charkhi Dadri has also gravely erred in dismissing the revision, which had been filed to challenge the order dated 04.07.2017 (Annexure P-6).

4. Heard learned counsel for the petitioner and perused the relevant material available on record.

5. It has not been disputed, rather, it is a matter of record that pursuant to the statement made by the father of the petitioner namely Shahzad, the police had registered FIR No.10 dated 09.01.2014 under Sections 323, 325, 341 and 34 IPC at Police Station Badhra, Bhiwani. During investigation, the investigating agency did not find any substance in the allegations levelled against respondents

No.5 to 15 and proceeded to submit its final report under Section 173 Cr.PC only qua respondents No.1 to 4. It needs to be reiterated that in case rightly or wrongly some persons, who may have been named and may have been attributed a role in a crime have been found innocent and qua whom the investigating agency has not presented challan, the complainant, if aggrieved, has a remedy under Sections 190 and 319 Cr.PC. The trial Court has been bestowed with ample powers under Section 319 Cr.PC to summon persons, who have not been chargesheeted by the police but named in the FIR, as additional accused, if during the course of trial, some cogent evidence comes to the fore against them. Not only this, the trial court has been bestowed with wide powers to even summon a person as an additional accused *suo moto* even in the absence of any application under Section 319 Cr.PC having been moved by the prosecution or by the complainant as the case may be. In case, such complaints (Annexure P-3) as the one in hand, are entertained pertaining to the same occurrence in question, qua which FIR (Annexure P-1) already stands registered, it would without doubt, lead to multiplicity of litigations and the object behind Section 319 Cr.PC would be rendered nugatory.

6. As a sequel to the above discussion, this Court has no hesitation in dismissing the instant petition as the same is totally devoid of any merit. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

15.05.2023
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Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No