

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

CRR-1258-2022 (O&M)
Reserved on: 25.05.2023
Date of Decision: 02.06.2023

Satyawan

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. M.R. Sharma, Advocate, for the petitioner.

Mr. R.S. Budhwar, Additional AG, Haryana.

HARNARESH SINGH GILL, J.

Challenge in the present petition is to the order dated 21.04.2022 passed by the Additional Sessions Judge, Kaithal, whereby an application under Section 319 Cr.P.C. filed by the prosecution for summoning respondent Nos. 2 and 3, as additional accused, in a pending trial of FIR No. 54 dated 10.04.2020 registered under Sections 302, 323 read with Section 34 IPC, was dismissed.

2. Learned counsel for the petitioner would vehemently argue that complainant-Satyawan lost his son Jora Singh in the occurrence; that the version recorded in the FIR registered on the basis of the statement of the complainant, clearly mentions that accused Dhappu and Vijay sons of Rishi Pal and Sunil and Sanjay sons of Polu, were giving beatings to his son Jora with

Danda and rod, but respondent Nos. 2 and 3, were wrongly let off by the police during investigation.

3. It is further submitted that the complainant, while appearing in the witness box as PW2, has reiterated said version recorded in the FIR and therefore, the very approach of the trial Court, in dismissing the application under Section 319 Cr.P.C., is not tenable in the eyes of law.

4. It is yet further submitted that it is settled law that if the version recorded in the FIR is corroborated by way of oral evidence in the Court, then it is sufficient to cause summoning of the additional accused so named in the application under Section 319 Cr.P.C.

5. On the other hand, learned State counsel, who is present in Court, upon the service of an advance copy of the petition, while defending the impugned order, submits that the caution to be adopted, while entertaining the application under Section 319 Cr.P.C., is of a higher degree. He further submits that once, respondent Nos. 2 and 3, were found innocent during investigation, the learned trial Court, has rightly passed the impugned order declining the prayer to summon them as additional accused.

6. I have heard the learned counsel for the parties.

7. If the version contained in the FIR is seen, then it would emerge that accused Dhappu has been attributed an iron rod blow on the neck of the deceased, whereas Vijay and Sanjay, have been attributed *Danda* blows whereas Sunil is alleged to have given slaps to the deceased. While appearing in the witness

box as PW2, the complainant stated that accused-Dhappu had inflicted iron rod blow on the chin of deceased-Jora Singh, whereas the remaining accused had inflicted *Danda* blows on the deceased.

8. It is a settled law that an additional accused is not to be summoned in a routine manner and such power must be exercised by the trial Court sparingly. In Hardeep Singh Vs. State of Punjab & others, 2014(3) SCC 926, the Hon'ble Apex Court has held that in order to summon an accused, it requires much stronger evidence than mere probability of the complicity of the person sought to be summoned. It was further held that in the absence of such satisfaction, the Court should refrain from exercising power under Section 319 Cr.P.C.

9. As noticed above, respondent Nos. 2 and 3 were found innocent during investigation. Though in the FIR version, it was stated by the complainant that respondent No.3 gave the deceased a *Danda* blow and respondent No.2 had given slaps, yet while appearing in the Court, it was deposed by the complainant that except accused Dhappu, the accused had given *Danda* blows to the deceased.

10. It could not be disputed that the police during investigation had found respondent Nos. 2 and 3 innocent. It may be noticed that two accused, namely, Dhappu and Vijay are facing the trial. The allegation against accused-Dhappu is of having given iron rod blow to the deceased, whereas accused-Vijay is alleged to have given *Danda* blows to the deceased. Respondent No.3- Sanjay was also alleged to have given *Danda*

blow on the person of the deceased, but as noticed above, he was found innocent by the Police during investigation. Had there been any substance in the plea of the petitioner that respondent Nos. 2 and 3 had wrongly been let off by the police, then perhaps for the same reason, accused-Vijay, who had allegedly given *Danda* blows on the person of the deceased, would also have been exonerated. Thus, there seems to be no substance in the plea of the petitioner that the police had conducted a faulty investigation.

11. In view of the above, I do not find any ground to interfere in the impugned order passed by the trial Court.

12. Finding no merit in the present petition, the same is hereby dismissed.

02.06.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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