

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

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**CRM-M-29310-2023**  
**Date of decision: 02.06.2023**

**GURLAL SINGH**

....Petitioner

**Versus**

**STATE OF HARYANA**

....Respondent

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Gurnoor Singh, Advocate  
for the petitioner.

Mr. Ram Kumar Singla, D.A.G., Haryana.

**HARSH BUNGER, J. (ORAL)**

Petitioner-Gurlal Singh, has filed this petition under Section 482 of the Code of Criminal Procedure, seeking setting aside of the order dated 17.01.2023 (Annexure P-2) summoning the accused under Section 319 of the Code of Criminal Procedure, passed by learned Judicial Magistrate Ist Class, Pehowa and also the order dated 17.04.2023 (Annexure P-4) passed by learned Sessions Judge, Kurukshetra, whereby, the aforesaid Summoning order dated 17.01.2023 (Annexure P-2) was upheld.

2. Briefly, the case FIR No.151 dated 01.09.2019 was registered at Police Station Ismailabad under Sections 148, 149, 323, 324 and 452 of the Indian Penal Code (for short 'the IPC') wherein, the petitioner is also one of the accused. The afore-said FIR has been got registered on the complaint of Gurlal Singh, alleging therein that on 30.08.2019, there was a rally of Dushyant Singh Chautalain Kurukshetra

and on that day, Kuljinder Singh son of Surender Singh, had taken the car of the complainant to the said rally; wherein, his car broke down. Accordingly, Kuljinder Singh left his car with the mechanic in Kurukshetra. It is stated that on 31.08.2019, the complainant along with Amrik Singh, Kuljinder Singh and three-four other persons of his village went to Kurukshetra to bring the car and when they started to come back in the evening, then for some reason, a quarrel happened between the complainant and Amrik Singh; whereupon, the complainant felt sorry to Amrik Singh and the matter was compromised and they all came to their home. It is alleged that at about 8:30 p.m., while the complainant was sleeping in his house along with his family, the complainant's father-Jasbir Singh was sleeping in the courtyard of the house, when Gurpreet Singh son of Amrik Singh, Amrik Singh son of Harbhajan Singh and Gurlal Singh (petitioner) son of Gurtek Singh broke open the door of their house and came in. The complainant's father tried to stop them but all of them entered the room of the complainant. Allegedly, Gurpreet Singh was holding *gandasi* in his hand; Amrik Singh was holding *sword* in his hand and Gurlal Singh was holding *barcha* and they immediately attacked on the complainant. Gurpreet Singh is alleged to have given *gandasi blow* on the head of the complainant; Amrik Singh gave *sword blow* on the shoulder of the complainant and Gurlal Singh gave *barcha blow* in the stomach of the complainant; whereupon, the complainant fell down. When the complainant's wife ran to save the complainant, then everyone manhandled his wife also. Upon seeing people coming after hearing the noise, all the said three accused along with two other un-known persons, who were standing on the gate with

their motorcycles, ran away leaving a motorcycle behind. Number of the motorcycle is stated to be HR-41J-2473 (Mark `Platina') 100 colour Black and Gurpreet Singh left his *gandasi* behind on the left motorcycle. Thereafter, the injured were admitted to the hospital where they remained under treatment. Accordingly, the afore-said FIR was registered.

3. During investigation of the above-said case, the petitioner was found innocent and no challan was presented against him. It appears that the challan was presented against Gurpreet Singh son of Amrik Singh only and the charges were also framed. During trial, the complainant (Gurlal Singh) was examined and thereafter, the prosecution filed an application under Section 319 of the Cr.P.C. for summoning the petitioner as an additional accused. The said application was allowed by the learned Judicial Magistrate Ist Class, Pehowa vide order dated 17.01.2023 and the present petitioner was summoned as an additional accused to face trial with the other accused.

4. Being dissatisfied, the petitioner challenged the aforesaid summoning order dated 17.01.2023 passed by the learned Judicial Magistrate Ist Class, Pehowa, by way of filing a revision petition before the learned Sessions Judge, Kurukshetra; however, the same was dismissed vide order dated 17.04.2023 (Annexure P-4).

Accordingly, the petitioner has filed the instant petition before this Court.

5. Learned counsel for the petitioner contends that the petitioner is innocent and has been wrongly implicated in the present case for political reasons as his father was *Sarpanch* of the village and was involved in village politics whereas, the complainant's party always

opposed the petitioner and his father and hence, they nurtured a grudge against the petitioner. It is submitted that during investigation, the petitioner was found innocent and accordingly, he was not challaned. It is further submitted that the learned Courts below have erred in summoning the petitioner as an additional accused and that too on the basis of mere examination-in-chief of the complainant, which according to the petitioner, was primarily the same as the complaint submitted to the police. It is submitted that no new evidence had come on record except the statement of the complainant which had already been verified by the Investigating Officer and the same is stated to have been found false. Learned counsel for the petitioner further submitted that the petitioner was not even present at the spot and there is no injury attributable to him and he has no concern with the alleged crime. Accordingly, it is prayed that the instant petition may be allowed and the impugned order may be set aside.

6. I have heard learned counsel for the petitioner and perused the paper book with his able assistance.

7. A perusal of the FIR would reveal that the petitioner has been specifically named in the FIR and specific allegations have been levelled against him. In the report under Section 173(2) of the Code of Criminal Procedure, it has been mentioned that petitioner was not found involved in the case; however during trial, the complainant has stepped into the witness box and has re-iterated the contents of the complaint and no improvement is noticed therein. Complainant Gurlal Singh, while stepping into the witness box as PW-1, made a statement, which is as

under :-

*“ PW-1 Gurlal Singh son of Jasbir Singh age 34 years resident of Village Thaska Miranji Tehsil Pehowa, District Kurukshetra.*

*Stated that on 30.08.2019 there was a rally of Dushyant Chautala in Kurukshetra. On that day, my car no.HR-26-AW-0416 Alto was took away by Kuljinder Singh son of Surender Singh resident of my Village in rally at Kurukshetra with his friends. My car was broken down at Kurukshetra and Kuljinder Singh left my car with the care mechanic. On 31.08.2019, I along with Amrik Singh son of Harbhajan Singh, Kuljinder Singh and 3-4 other persons went to Kurukshetra to bring back the car. In the evening, Amrik Singh and I had a quarrel over some matter, for which I apologized to Amrik Singh. Then about 8:30 p.m., I was in my home and my father Jasbir Singh was sleeping in the courtyard of his house. At that time, Gurpreet Singh son of Amrik Singh, Amrik Singh son of Harbhajan Singh and Gurlal Singh son of Gurtek Singh resident of Village Thaska Miranji entered our house by broke open the door of our house, my father has tried to stop them but all three came in my room, Gurpreet was holding Gandasi in his hand, Amrik Singh was having Sword in his hand and Gurlal Singh was holding Spear in his hand. They attacked on me. Gurpreet Singh gave Gandasi blow on my head, Amrik Singh gave sword blow on my shoulder to which I try to stop with my right hand and sword hit on my finger of right hand, my wife Baljinder Kaur raised noise, Gurlal hit spear holding in his hand in my stomach, which I escaped and fell down. When my wife tried to save me then they manhandled my wife, people came by hearing noise. Two persons were standing outside on start motorcycle, they ran by leaving*

*motorcycle. The no. of the motorcycle was HR-41J-2473 Mark Platina, Gurpreet Singh left his Gandasi on the spot and ran away on the motorcycle standing outside. Then son of my uncle Kuljinder Singh took me to CHC Ismailabad from where I was refer to LNJP Hospital Kurukshetra, for this I recorded my statement Ex. PW-1/A on which I have my sign. The accused are present in the court.”*

A perusal of the above-said statement of the complainant would show that he has been uniform and consistent in his stand that the present petitioner was armed with *barcha* and hit him in the stomach, which he escaped.

8. Apart from the above, the learned trial Court while allowing application under Section 319 of the Cr.P.C., held as under:-

*“ 5. Reasons for allowing the application.*

- i) The complainant has categorically mentioned the name of proposed accused and the role played by him in the alleged incident which took place on 31.08.2019.*
- ii) Merely because, it has been mentioned by the I.O in the challan that no credible evidence was found against these proposed accused persons without any supporting reasons does not tantamount to giving any benefit to the accused persons. Moreover, the complainant during his examination-in-chief as PW1, before the Court has specifically deposed and reiterated his version qua name of the accused persons, weapons used by them, places of injuries which shows that the application in hand deserves to be allowed.”*

9. Further, the learned Revisional Court below while dismissing the Criminal Revision filed by the petitioner vide order dated 17.04.2023 (Annexure P-4) has held as follows:-

*“10. Keeping in mind the above settled proposition of law on subject, let us revert back to facts of case in hand. One Gurlal Singh, son of Shri Gurtek Singh, resident of village ThaskaMiranji, District Kurukshetra, set the criminal law on motion by filing a complaint mentioning therein the manner in which the incident occurred, also pointed out the names of the assailants, who had unleashed an attack, weapons with which they were armed and the role played by each one of them. Thus, a graphic description of the sequence of events in which the incident occurred was given by complainant in his first version given to the police authorities, wherein he has also mentioned the reason that led to the incident. Furthermore, when he appeared in the witness box, he reiterated the contents of complaint. No improvement could be noticed in his statement recorded on oath as compared to his first version given to the police authorities.*

*In terms of the law laid down in **Hardeep Singh’s case (supra)**, test at the time of deciding an application under section 319 of Cr.P.C. is to see as to whether more than a prima facie case is made out against a person not arrayed as an accused but who appears to have committed the offence and whether he deserves to be tried as an accused with accused already facing trial in the case. The parameters for deciding an application under section 319 of Cr.P.C. and appreciating evidence while disposing of the case finally, are totally different.*

*It would also be not out of place to mention here that the Investigating Officer did not mention anything on the basis of which he had let off petitioner who was specifically named in the FIR.*

*11. **S. Mohammed's case (supra)** relied upon by learned counsel for the petitioner has been carefully read, the facts of the case in hand are different and distinguishable to those in the referred judgment. In **S. Mohammed's case (supra)**, apart from the fact that police during investigation and after registration of the FIR did not find anything substantial against the accused sought to be summoned, who was found innocent even in departmental proceedings. Resultantly, the Hon'ble Supreme Court was of the opinion that no strong and cogent evidence exist against the accused to summon him to face trial. However, in the case in hand, there is no contraction in the first version of the complainant and the statement recorded on oath in the court. Further, it would be appropriate to point out that complainant was uniform and consistent in his stand that the present petitioner was armed with a 'Barchha' and tried to hit him in his stomach but he (complainant) ducked and saved himself, resultantly, did not suffer any injury in the stomach.*

*12. The petitioners have invoked revisional jurisdiction of this Court under section 397 of the Code of Criminal Procedure, 1973. In respect of the principles governing the exercise of revisional jurisdiction, the Hon'ble Supreme Court, in **Jagannath Choudhary and anr. Vs. Ramayan Singh and others, AIR 2002 SC 2229** has held as under :-*

*“Where the court concerned does not appear to have committed any illegality or material irregularity or impropriety in passing the impugned judgment and order, the revision*

*cannot succeed. If the impugned order apparently is presentable, without any such infirmity which may render it completely perverse or unacceptable and when there is no failure of justice, interference cannot be had in exercise of revisional jurisdiction.”*

*“...It is not an appellate forum wherein scrutiny of evidence is possible neither the revisional jurisdiction is open for being exercised simply by reason of the factum of another view being otherwise possible...”*

*13. In view of discussion made above, the impugned order passed by learned trial Court is just and appropriate and does not suffer from any material illegality and irregularity which can call for any interference by this court while exercising the revisional jurisdiction. Consequently, the impugned order dated 17.01.2023 is upheld and present revision filed by petitioner is dismissed.”*

10. A perusal of findings returned by learned Revisional Court below would show that a specific finding has been returned that when statement of the complainant is read in conjunction with other documents collected by Investigating Agency, sufficient case is made out to summon petitioner to face trial. I do not see any reason to interfere in the impugned order(s), more so when nothing material has been shown by the petitioner to dislodge the afore-said satisfaction recorded by the Revisional Court.

11. In view of the above, no interference is called for in the order dated 17.01.2023 passed by learned Judicial Magistrate Ist Class, Pehowa, under Section 319 Cr.P.C; whereby, the petitioner was summoned as an additional accused to face trial in the case. Even the order passed by the Revisional Court is well reasoned and does not call for any interference. Leaned counsel for the petitioner has failed to point

out any illegality or perversity in the impugned order dated 17.01.2023 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Pehowa and also the order dated 17.04.2023 (Annexure P-4) passed by learned Sessions Judge, Kurukshetra, whereby, the aforesaid Summoning order dated 17.01.2023 (AnnexureP-2) was upheld. Accordingly, the present petition, being bereft of any merit, is hereby dismissed.

12. No other argument has been raised.

13. None of the observations made above shall be construed as any observation or expression on the merits of the case and the trial Court shall proceed with the trial without being influenced by the above-said observations.

14. All pending application/s, if any, shall also stand closed.

**June 2<sup>nd</sup>, 2023**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No