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

CRR-1206-2021
DECIDED ON: 10th APRIL, 2023

JAGSEER SINGH

PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sumit Puri, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

Mr. R.S. Dhull, Advocate
for respondents No.2, 3 and 4.

SANDEEP MOUDGIL, J (ORAL)

The present revision petition has come up for hearing before this Court assailing the order dated 31.08.2021 whereby, an application under Section 319 Cr.P.C., summoning respondents No.2 to 4 namely Nanhi Devi, Bala Devi and Priyanka as an additional accused, was dismissed.

Learned counsel for the petitioner has contended that the impugned order dated 31.08.2021 is not sustainable in the eyes of law wherein, learned trial Court has failed to appreciate and consider the statement of PW-2-Jagseer Singh (present petitioner) who has specifically

alleged against respondents No.2 to 4 and assigned them a categoric role of causing injuries, as was also narrated in the FIR No.151, dated 17.09.2020.

Having gone through the impugned order passed by learned trial Court while examining the application under Section 319 Cr.P.C., and the arguments raised therein, it is evident that inquiries were got conducted by the Investigating Officer and subsequently at the level of DSP wherein, respondents No2 to 4 were given clean chit and were declared innocent finding that they were not present at the place of occurrence.

It is an admitted case of the petitioner that once the investigating agency has filed a final report under Section 173 Cr.P.C., mentioning that respondents No.2 to 4 were not present at the spot at the time of occurrence and the petitioner has not filed any protest petition before the trial Court meaning thereby, he admitted the same as it is in toto.

A perusal of statement as referred to by the counsel for the petitioner, it is evident that the allegations made therein, against respondents No.2 to 4 are absolutely of stereo type as has been authored in the FIR and there is no additional material or cogent evidence to support this vague and bald allegation restricted to that Bala Devi and Nanhi Devi both gave slaps and kicks wherein Priyanka wife of Jagseer gave beatings with slippers.

Learned counsel for the petitioner has laid much stress on the Post Mortem Report (Annexure P-5) referring to the injuries no.1 and 5 alleging that the same have been caused by respondents No.2 to 4 wherein, even as per the statement of PW-2-Jagseer, it cannot be concluded that the injuries could be so fatal leading to the death of Jagtar Singh (since

deceased) and by any stretch of imagination, it cannot be concluded that such injuries as mentioned at Sr. No.1 and 5 of PMR, can be inflicted by slapping, kicks and slippers.

The trial Court has rightly dismissed the application under Section 319 Cr.P.C., vide impugned order by observing that there is no discrepancy in the challan and also rightly concluded, in view of the judgment rendered by a Constitution Bench of Hon'ble Apex Court in the case of **"Hardeep Singh vs. State of Punjab"; 2014 (1) RCR (Criminal) 623**; that the evidence on record does not satisfy the said test and therefore, in the absence of such satisfaction respondents No.2 to 4 cannot be summoned as an additional accused in the present case.

This Court is also in full consonance with the impugned order dated 31.08.2021, wherein, could not find any infirmity, perversity and illegality, hence, there is no reason to interfere with the same.

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

(SANDEEP MOUDGIL)
JUDGE

10th APRIL, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |