

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1485-2021

Date of Decision : 20.04.2023

Ranjit Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Shekhar Verma, Advocate and
Mr. Aneeshh Shukla, Advocate
for the petitioners.

Mr. M.S.Nagra, AAG, Punjab.

VIKRAM AGGARWAL, J

1. The present revision petition assails the order dated 16.07.2021, passed by the learned Sessions Judge, Gurdaspur, vide which the application filed under Section 319 Cr.P.C. for summoning Ranjit Singh son of Sewa Singh and Ranjodh Singh son of Jagtar Singh as additional accused was allowed.

2. The facts, in brief, are that on 27.06.2019, one Satnam Singh got injured when his brother Mukhtiar Singh allegedly ran a tractor over him. Satnam Singh expired on 29.06.2019 while undergoing treatment. On the statement of the wife of Satnam Singh namely Jaswinder Kaur, the FIR was registered. It was stated by Jaswinder Kaur that Satnam Singh had three brothers namely Jagtar Singh, Mukhtiar Singh and Amarjit Singh. Mukhtiar

Singh was unmarried whereas Jagtar Singh was residing at his in-laws' village. One sister Pinderjeet Kaur was married whereas another sister Charanjeet Kaur had expired. It was stated by Jaswinder Kaur that there was some dispute with regard to land and on 27.06.2019, Mukhtiar Singh ran over Satnam Singh with a tractor which he was driving. She also alleged that Jagtar Singh, Ranjit Singh and Ranjodh Singh were also present at the spot and had exhorted Mukhtiar Singh to run over Satnam Singh with a tractor.

2(i). An FIR No.80 dated 29.06.2019, was registered against all four persons namely Mukhtiar Singh, Jagtar Singh, Ranjit Singh and Ranjodh Singh under Section(s) 302/34 IPC, at Police Station Sri Hargobindpur. (Annexure P-2). Ranjodh Singh was the son of Jagtar Singh and Ranjit Singh was the son of maternal uncle of Satnam Singh.

2(ii). However, an inquiry was conducted by the Deputy Superintendent of Police of the area in which it found that Jagtar Singh, Ranjit Singh and Ranjodh Singh were not involved. The report is on record as Annexure P-4. Under the circumstances, final report under Section 173 Cr.P.C. (Annexure P-3) was submitted arraying only Mukhtiar Singh as accused while keeping remaining three persons in column No.2.

2(iii). During the course of the trial, Jaswinder Kaur appeared as PW1 and in her examination-in-chief (Annexure P-5), she again named all four persons. Her son Sukhpreet Singh appeared as PW2 and he also named all four persons in his examination-in-chief (Annexure P-6).

2(iv). An application under Section 319 Cr.P.C. (Annexure P-7) was thereafter moved seeking to summon Ranjit Singh and Ranjodh Singh as

additional accused. Vide the order under challenge, the said application was allowed and Ranjit Singh and Ranjodh Singh were ordered to be summoned as additional accused, leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties and have also perused the paper book.

4. Learned counsel for the petitioners has submitted that the trial Court gravely erred in allowing the application under Section 319 Cr.P.C. Reference has been made to the initial version given in the FIR (Annexure P-2), the inquiry report (Annexure P-4), the statements of Jaswinder Kaur and Sukhpreet Singh (Annexure P-5 and P-6) and the application moved under Section 319 Cr.P.C. (Annexure P-7). It has been submitted that a perusal of all these would clearly show that Jagtar Singh, Ranjit Singh and Ranjodh Singh were not present at the spot and have wrongly been roped in by the complainant. It has been argued that the trial Court did not examine the matter from the correct perspective and allowed the application on flimsy grounds. It has been contended that whereas Jagtar Singh, Ranjit Singh and Ranjodh Singh had been named by the complainant all through but strangely enough, the application under Section 319 Cr.P.C. was moved only for summoning Ranjit Singh and Ranjodh Singh and no reasons were given for not seeking to summon Jagtar Singh. Learned counsel has also read out the inquiry report (Annexure P-4) as also the statements of Jaswinder Kaur and her son Sukhpreet Singh (Annexures P-5 and P-6) and has pointed out certain discrepancies. It has been argued that there was no occasion for the trial Court to allow the application under Section 319 Cr.P.C. and it committed a grave error in doing so.

5. On the other hand, learned counsel representing the State of Punjab has submitted that the impugned order is legal and valid. However, reference has also been made to the reply filed by the State wherein it has been reiterated that as per the inquiry report, Ranjit Singh, Jagtar Singh and Ranjodh Singh had been found to be innocent.

6. I have considered the submissions made by learned counsel for the parties.

7. An unfortunate incident took place on 27.06.2019 at about 8:30 p.m. when the real brother of Satnam Singh namely Mukhtiar Singh ran over Satnam Singh with a tractor. Satnam Singh was rushed to the local hospital from where he was taken to Civil Hospital, Batala and then to Guru Ram Dass Hospital, Amritsar where he eventually expired on 29.06.2019 at about 4:00 a.m. A statement was given by Jaswinder Kaur wife of deceased Satnam Singh on the same day naming four persons i.e. Mukhtiar Singh, Jagtar Singh, Ranjit Singh and Ranjodh Singh, attributing specific roles to them. Some applications were submitted to the police stating that Jagtar Singh, Ranjit Singh and Ranjodh Singh had been falsely implicated in pursuance of which an inquiry was conducted by the Deputy Superintendent of Police, Shri Hargobindpur. The inquiry report is on record as Annexure P-4. It shows that a detailed probe was conducted in which statements of a number of persons were recorded including the statements of Sarpanch and Panch etc. of the village. Call details etc. were also collected and the Deputy Superintendent of Police came to the conclusion that Ranjit Singh and Ranjodh Singh were innocent and Jagtar Singh was not present at the spot. It was, however, found that Jagtar Singh had instigated Mukhtiar Singh for

picking up a fight with Satnam Singh and, therefore, an offence under Section 109 was made out. It was also found that as per the call details, Jagtar Singh and Ranjodh Singh were 50 kilometers away from the place of occurrence at the relevant time. This report was duly accepted by Senior Superintendent of Police, Batala. It is, therefore, clear that the investigating agency after conducting a thorough probe arrived at the conclusion that the involvement of Jagtar Singh, Ranjit Singh and Ranjodh Singh was not there.

7(i) After the presentation of the final report, charges were framed and evidence of the prosecution started. Jaswinder Kaur stepped into the witness box as PW1 and her examination-in-chief was recorded which is on record as Annexure P-5. In her statement, no doubt she reiterated her version but stated that at the time of the incident, her son Sukhpreet Singh and daughter Rajbir Kaur were present at the spot and had witnessed the occurrence whereas in her initial statement she had not stated so. The matter does not rest here. Her son Sukhpreet Singh also appeared as PW2 and his examination-in-chief was recorded which is as Annexure P-6. He stated that after the incident, his mother Jaswinder Kaur informed him on phone and he reached there immediately. He did not depose that he or his sister were present at the spot. There is another very strange fact. The application under Section 319 Cr.P.C. sought summoning of only Ranjit Singh and Ranjodh Singh but did not seek summoning of Jagtar Singh despite the fact that Jagtar Singh had also been named by both Jaswinder Kaur and Sukhpreet Singh while appearing as PW1 and PW2. No reasons for not seeking summoning of Jagtar Singh were given.

7(ii) The aforementioned facts and circumstances show that mere

statements of Jaswinder Kaur and Sukhpreet Singh (Annexures P-5 and P-6) while appearing as PW1 and PW2 respectively were not sufficient at that stage to justify the summoning of Ranjit Singh and Ranjodh Singh. In the considered opinion of this Court, the trial Court fell into error by allowing the application under Section 319 Cr.P.C. as the evidence which had come on record before the trial Court at that stage was not sufficient to indicate the involvement of Ranjit Singh and Ranjodh Singh. No doubt, a person lost his life at the hands of his real brother who is already facing trial. However, the tendency to rope in other relatives is not unknown. The trial Court should, therefore, have been extremely careful in separating the grain from the chaff at that stage. In any case, the order under challenge is not sustainable at this stage. It has to be borne in mind that in criminal cases, no straitjacket formula can be laid down and each case would have to be decided on its own merits. Any judgment on the subject would, therefore, not be fully applicable and facts of each case would have to be seen.

7(iii) In the case of **Hardeep Singh Vs. State of Punjab and others** **2014 (3) SCC 92**, a Constitution Bench of the Hon'ble Supreme Court of India examined various questions with regard to Section 319 Cr.P.C. In the said case, a reference had been made to the Hon'ble Constitution Bench on account of different views having been expressed by the Hon'ble Apex Court and several High Courts on the scope and extent of the powers of the Courts under the criminal justice system to arraign any person as an accused during the course of inquiry or trial as contemplated under Section 319 Cr.P.C. After examining the matter threadbare, the Hon'ble Apex Court answered all the questions framed for consideration. Para 99 of the judgment answers

question No. (iv), which was regarding the degree of satisfaction required for invoking the power under Section 319 Cr.P.C. The Hon'ble Supreme Court of India held as under:-

“99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words 'for which such person could be tried together with the accused.' The words used are not for which such person could be convicted'. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.”

7(iv). The position of law which emerges, therefore, is that for summoning anyone as an additional accused, much stronger evidence is required than mere probability of his complicity. It also emerges that the test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. The present case does not, under any circumstance, pass the test laid down by the aforesaid judgment for the reasons mentioned in the preceding paragraphs.

8. In view of the aforementioned facts and circumstances, this Court is of the considered opinion that the order dated 16.07.2021, passed by the trial Court summoning Ranjit Singh and Ranjodh Singh as additional accused under Section 319 Cr.P.C. is not sustainable.

The present revision petition is, therefore, allowed and the order dated 16.07.2021, passed by the trial Court is set aside. However, nothing observed hereinabove shall be construed to be an opinion on the merits of the case.

(VIKRAM AGGARWAL)
JUDGE

20.04.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No