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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50054-2023 (O&M)
Date of decision: 21.11.2023

KULBIR KAUR ALIAS KULVIR KAUR

...Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Davinder Kumar, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

CRM-48722-2023

The present application has been filed for placing on record the copies of MLRs of injured persons and inquiry report dated 20.01.2021 as Annexures P-7 to P-10.

For the reasons mentioned in the application, the same is allowed. The copies of MLRs of injured persons and inquiry report dated 20.01.2021 are taken on record as Annexures P-7 to P-10, subject to all just exceptions.

CRM-M-50054-2023

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 31.08.2023 passed by the learned Additional Sessions Judge, Ludhiana, whereby the petitioner has been summoned to face trial as an additional accused under Section 319 Cr.P.C in case FIR No.139 dated

08.09.2020, under Sections 323, 325, 201 and 34 of the IPC, registered at Police Station City-2 Khanna, District Ludhiana, Punjab.

2. Learned counsel for the petitioner submitted that it is a case where the petitioner is a lady and an accused in the aforesaid FIR along with other co-accused and all of them are the family members and the allegations are that they have caused injuries to two persons, namely, Major Singh and Avtar Singh. He further submitted that there was no specific role attributed to the present petitioner and she being a family member has been falsely arraigned as an accused in the present FIR. He also submitted that the injuries, if at all, may have been caused by the other co-accused but even as per the FIR initially it was so stated that the petitioner had caught hold of the injured-complainant from his hair and dragged him but no specific injury has been attributed to the petitioner and therefore, when the investigation was conducted by the police, the police has exonerated the petitioner. He further submitted that thereafter, an application was moved by the prosecution under Section 319 Cr.P.C for summoning the petitioner as an additional accused and the aforesaid application was dismissed by the learned Judicial Magistrate Ist Class, Khanna by observing that there was no evidence against the petitioner in the present case and therefore, she could not be summoned as an additional accused since *prima facie* case was required to be made against the present petitioner which was not proved. He further submitted that the aforesaid order passed by the learned Judicial Magistrate Ist Class, Khanna was assailed by the complainant, namely, Major Singh by filing a revision petition before the learned Sessions Court, Ludhiana and the learned Additional Sessions Judge, Ludhiana allowed the revision and set aside the order passed by the learned Judicial Magistrate Ist

Class, Khanna and the petitioner was therefore, summoned as an additional accused under Section 319 Cr.P.C. He further submitted that there are apparent contradictions in the statements of the injured persons who were examined as PW-1 and PW-2, i.e Major Singh and Avtar Singh, respectively and therefore, while applying the test laid down by Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab, 2014(3) SCC 92** more than *prima facie* case was not found and therefore, the petitioner has been wrongly summoned in this regard.

3. I have heard the learned counsel for the petitioner.

4. The aforesaid FIR which was lodged on the basis of the complaint made by injured-Major Singh is reproduced as under:-

"Today a copy of report no. 18 dated 24.08.2020 regarding MLR no. MLR/AD/97/Khanna/2020 and MLR/AD/98/Khanna/2020 dated 23.08.2020 w.r.t. injured Avtar Singh, Major Singh sons of Gurbachan Singh r/o Khanna Khurd District Ludhiana, after police proceedings from SI Paramdin Khan 45/LR has been received through PHG Gurtej Singh 17972 at the police station for registration of FIR, the contents of which are as under:

Major Singh s/o Gurbachan Singh, r/o Khanna Khurd, P.S. City-2 Khanna got recorded his statement that "I am resident of above said address and I do work as Supervisor in Fateh Security & Placement Company. Yesterday on 23.08.2020 at about 11:25 AM, I was cleaning the grass on my roof. My neighbourer Sher Singh's son Salinder Singh was sitting in verandah. He saw me sitting on roof and started clapping by making gestures towards me. When I tried to restrain him from making wrong gestures then Salinder Singh asked me to come down because they have to arrange Bhog ceremony of my death. I came down from the roof and went out of the

house. Then Salinder Singh, Sher Singh, Kulvir Kaur, Kulwant Singh and three unknown persons carrying Sotis in their hands attacked me. Salinder Singh gave Soti blow on my right elbow and gave second blow on the ankle of my right leg. Kulvir Kaur caught hold me from my hairs and dragged me. Sher Singh pulled me down. I raised alarm 'Marta-Marta'. On hearing my alarm, my mother Gurdev Kaur and my wife Jaswinder Kaur rushed at the spot and tried to rescue me. They also raised alarm and got me rescued from the clutches of said persons. My brother Avtar Singh by leaving his work in fields also came up at the spot for my rescue and tried to rescue me from said persons. But said persons also caused injuries to my brother Avtar Singh. Salinder Singh who was carrying some sharp edged thing in his hand, caused its blow on the wrist of my left hand. Kulbir Kaur gave Soti blow on my brother Avtar Singh, which landed on the wrist of his left hand. Sher Singh gave Soti blow on the head of my brother. Kulwant Singh gave Soti blow on my right hand. Then one unknown young man gave Soti blow on my right leg. My mother Gurdev Kaur and my wife Jaswinder Kaur got me and my brother Avtar Singh rescued from the clutches of said persons. But three unknown persons caused me fist blows. Thereafter, said persons fled away from the spot. Said persons caused us beatings. Grudge behind the occurrence is that there is land dispute between us and Sher Singh and case to that effect is pending before the Sessions Court, Ludhiana.

Kindly initiate legal proceeding against said persons.”

5. A perusal of the aforesaid FIR would show that so far as the present petitioner is concerned, it has been so alleged that the petitioner along with other co-accused were having sotis in their hands and they attacked the

complainant. The petitioner caught hold of the complainant from his hair and dragged him. Thereafter, it has come in the FIR that the accused persons also caused injuries to the brother of the complainant, namely, Avtar Singh, who is also an injured in the present case. It has further come in the FIR that the petitioner gave *soti* blow to his brother, namely, Avtar Singh which landed on the wrist of his left hand. The perusal of the aforesaid FIR would also show that injuries appear to have been caused collectively by the accused persons although qua various accused different allegations have been made qua different injuries. Thereafter, when the complainant deposed as prosecution witness as PW-1, then in his examination-in-chief vide Annexure P-3, he has deposed that the petitioner caught hold of him from his hair and thrashed him and also stated thereafter that she gave a stick blow on the right hand of his brother-Avtar Singh. Similarly, when his brother, namely, Avtar Singh deposed in examination-in-chief as PW-2, then he also stated that the present petitioner gave a stick blow on his left arm and on his head.

6. The learned Additional Sessions Judge, Ludhiana while discussing the order passed by the learned Judicial Magistrate Ist Class, Khanna had observed that specific role has been attributed to the present petitioner and she along with other co-accused attacked the complainant party and caused injuries. The petitioner caught hold of the complainant from his hair and dragged him. In addition to the above, it has also been stated in the statements as well as in the FIR that injuries were caused by the present petitioner.

7. A perusal of the MLRs which have been placed on record as Annexures P-7 and P-8 by the petitioner would show the following injuries

upon the injured, namely, Avtar Singh and Major Singh, respectively, as follows:-

Sr.No.	Injuries	Marked	Injury Number
1	ABRASION MS 0.5 CM X 0.5 CM ON THE PARIETO OCCIPITAL REGION. NO H/O LOC VOMIT, ENT BLEED SEIZURE. ADV SURGERY CONSULT.	Yes	3
2	LACERATED WOUND MS 5 CM X 1 CM ON THE LEFT FOREARM, EXTENSOR ASPECT 10 CM ABOVE THE WRIST, FRESH BLEED PRESENT ADV SURGERY OPINION.	Yes	1
3	ABRASION MS 0.5 CM X 0.5 CM ON THE LEFT FLEXOR ASPECT OF FOREARM. MOVEMENTS WNL.	Yes	2
4	ABRASION MS 0.2 CM X 0.2 CM ON THE RIGHT DORSAL ASPECT OF RIGHT HAND. ADV ORTHO CUNSLT.	Yes	4
5	ABRASION MS 0.2 CM X 0.2CM ON THE LEFT DORSAL ASPECT OF FOOT, ADV ORTHO OPINION.	Yes	5

Sr.No.	Injuries	Marked	Injury Number
1	ABRASION MS 1 CM X 1 CM ON THE RIGHT ELBOW. MOVEMENTS WNL.	Yes	1
2	ABRASION MS 2 CM X 1 CM ON THE RIGHT LATERAL MALLEOLUS. MOVEMENTS WNL.	Yes	2

8. The aforesaid would show the injuries on the left forearm, left flexor aspect of forearm, right hand and also on the foot of injured-Avtar Singh. Similarly, the injuries suffered by injured-Major Singh are on the right elbow. Therefore, it appears that even from the MLRs injuries have been caused on the arms and forearms which has been so stated by the complainant in the FIR and in the statements of both the injured. There is nothing on the record to show that how the police had exonerated the petitioner and on what basis the same was done.

9. This Court is of the view that the Revisional Court has rightly exercised its jurisdiction and has set aside the order passed by the learned Judicial Magistrate Ist Class, Khanna since not only the FIR but even in the statements of both the injured there has been specific role attributed to the present petitioner and therefore, it would constitute more than *prima facie* evidence against the petitioner only for the purpose of considering an application under Section 319 Cr.P.C. and therefore, this Court is of the view that as per the test laid down by the Hon'ble Supreme Court in **Hardeep Singh's case (supra)**, the same stands fulfilled. No illegality or perversity can be found in the order passed by learned Revisional Court dated 31.08.2023.

10. Consequently, finding no merit in the present petition, the same is hereby dismissed.

21.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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