

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

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**CRR-698-2023 (O&M)**  
**Date of Decision: 30.04.2024**

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Rishipal & Anr.

... Petitioners

VS.

State of Haryana & Anr.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. Keshav Pratap Singh, Advocate for the petitioners

Mr. GS Dhillon, AAG Haryana

Mr. Yashwant Singh Rathore, Advocate and

Mr. Yuvraj Singh Rathore, Advocate and

Mr. Sudha Singh, Advocate for respondent No.2

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**Sandeep Moudgil, J.**

(1). This petition under Section 401 CrPC has been filed by the petitioners seeking to quash the judgment dated 13.02.2023 passed by Addl. Sessions Judge, Karnal vide which the petitioners have been ordered to be summoned under Section 319 CrPC as additional accused.

(2). Learned counsel for the petitioners submits that after thorough investigation, the police had filed the challan dated 08.04.2022 (Annexure P2) against co-accused Govind and the petitioners were kept in column No.2 as the complainant has leveled general allegations only even as per his statement under Section 161 CrPC.

(3). He contends that before the trial court, the complainant has not attributed any specific role and had only alleged that the petitioners gave lathi blows on his head. It is averred that the present FIR is nothing but a counter-blast to FIR No.447 dated 06.11.2021 under Sections 148/149/323/341/506 IPC at Police Station Madhuban, Karnal registered by co-accused Govind against

the complainant party for giving him grievous injuries and in fact the complainant and his family members came to the fields of the petitioners and aggressively gave injuries to them.

(4). Learned State counsel as well as counsel for respondent No.2 have submitted that there are cogent and convincing evidence/material against the petitioners inasmuch as the petitioners were specifically named as assailants in the FIR and specific role has been attributed against them and other co-accused persons who attacked the complainant party conjointly. It is further vehemently urged that the statements made by the injured Surender and Rahul under Section 161 CrPC clearly mention that the petitioners were the one who were actively involved in inflicting grievous injuries on the person of the complainant Yuvraj, his father Surender and cousin Rahul.

(5). Heard learned counsel for the parties.

(6). A perusal of the contents of the FIR would show that Govind was armed with Gandasi along with the petitioners, namely, Arvind and Rishipal who were armed with dandas gave blow as such on the person of Surender and Rahul. In his statement under Section 161 CrPC, injured Surender reiterated his testimony and deposed that the petitioners were armed with lathis and they came along with Govind armed with Gandasi and started inflicting injuries to the complainant party. So much so, specific role has been attributed against the petitioners which stands corroborated with the report under Section 173 CrPC.

(7). At this stage, learned counsel for the petitioner contends that the petitioners already stood exonerated and have been put in Column No.2 in the investigation which was based on the affidavits/statements of the co-villagers. The trial court, however, rightly did not consider such plea of the petitioners

which was not supported by any cogent material inasmuch as the persons who deposed in favour of the petitioners and relied upon by the prosecution, were in fact not the eye-witness and seems to be only the hearsay witness and in such like cases, hearsay testimony cannot form the ground for exoneration where the role of the assailant is self-evident from the contents of the FIR where specific attribution has been made. The police could not have blindly supported the deposition/statement made by persons astray who were evidently not witness to the occurrence.

(8). The observation made by the trial court cannot be tinkered with by this court particularly when a specific finding has been returned with respect of the involvement and active participation of the petitioners in the attack which finds corroboration from the statement of the complainant, the contents of the FIR and the deposition under Section 161 CrPC of Surrender on the basis of which the trial court rightly arrived at the conclusion that there are reasonable material against the petitioners constraining them to face trial under Sections 323/324/326/307/506/34 IPC.

(9). No ground has been made out by the petitioners to quash the summoning order dated 13.02.2023.

(10). Dismissed.

30.04.2024  
V.Vishal

(Sandeep Moudgil)  
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No  
Yes/No