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

Sr. No.112**CRR-786-2024 (O&M)****Date of decision : 18.07.2024**

Shivrajandeep Singh @ Rajan Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rahul Arora, Advocate, for the petitioner.

KIRTI SINGH, J.

1. The prayer in the present revision petition is for setting aside the order dated 01.02.2024 passed by the learned Additional Sessions Judge, Ferozepur vide which application dated 14.09.2023 (Annexure P9) moved under Section 319 Cr.P.C. for summoning the petitioner as an additional accused has been allowed.

2. It is briefly stated that during investigation and after registration of the FIR No.123 dated 18.10.2016 (Annexure P1), under Sections 307, 382, 323, 427, 148 & 149 IPC and Section 25/27/54/59 of Arms Act at Police Station Makhu, District Ferozepur and a cross-case bearing DDR No.27 dated 29.10.2016, the parties to the FIR as well as DDR at the first instance entered into the compromise and on the basis of the compromise got bail from this Court vide Annexures P2 & P3.

3. Thereafter, two cases for quashing of the FIR as well as the DDR/cross-case were instituted before this Court which was ultimately dismissed as the parties did not acknowledge the compromise. The said

orders annexed with the petition as Annexures P4 & P5.

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4. After dismissal of the compromise quashing petition, a direction petition was filed before this Court by the complainant for directing the prosecution agency to file the charge-sheet/challan. Thereafter, the prosecution agency filed the charge-sheet in the year 2022 and the petitioner was declared innocent vide GD No.17 dated 29.11.2022 and the charges were framed on 01.05.2023.

5. On 14.09.2023, application for summoning the petitioner as an additional accused was filed. Thereafter, vide order dated 01.02.2024, the said application was allowed on the ground that PW4-Baghel Singh had categorically deposed that the petitioner was armed with .315 bore rifle along with other co-accused and had fired two shots towards them with an intention to kill them.

6. The counsel for the petitioner argued that after thorough investigation of the case, the petitioner was found to be innocent and he was kept in column No.2 of the challan report. The learned trial Court merely on the basis of statement of the complainant recorded in chief as PW-4, the application under Section 319 Cr.P.C. was allowed. In fact, all the allegations leveled against the petitioner are vague and without any basis.

7. I have considered the arguments advanced before me. I have gone through the contents of the FIR which has been registered on the basis of the statement suffered by Baghel Singh (complainant) that on 18.06.2016, the petitioner along with the other co-accused who were armed with the rifles fired shots towards them with intention to kill them. Right from the inception of recording in statement of Baghel Singh (complainant-injured) before police on the basis of which law was set into motion till his

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examination before the Court on oath as PW-4 his stand qua involvement of the petitioner has remained intact. He categorically deposed that the petitioner was armed with .315 bore riffle along with other co-accused and had fired two shots towards them with an intention to kill them. Thus, specific overact has been attributed to the petitioner which clearly shows his active participation in commission of crime. There is strong evidence in the shape of testimony of PW4-Baghel Singh (complainant-injured) that the petitioner along with other co-accused in furtherance of common intention actively participated in commission of crime.

8. In case **Sartaj Singh Vs. State of Haryana and another, 2021 (2) RCR (Criminal) 527** it held as under:-

"6.2 Considering the law laid down by this Court in Hardeep Singh (supra) and the observations and findings referred to and reproduced hereinabove, it emerges that (i) the Court can exercise the power under section 319 CrPC, 1973 even on the basis of the statement made in the examination-in-chief of the witness concerned and the Court need not wait till the cross-examination of such a witness and the Court need not wait for the evidence against the accused proposed to be summoned to be tested by cross-examination; and (ii) a person not named in the FIR or a person though named in the FIR but has not been charge-sheeted or a person who has been discharged can be summoned under section 319 CrPC, 1973 provided from the evidence (may be on the basis of the evidence collected in the form of statement made in the examination-in-

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chief of the witness concerned), it appears that such person can be tried along with the accused already facing trial.”

9. On perusal of record and after considering the testimony of the complainant recorded on oath as PW-4 and the facts and circumstances of the case, I find sufficient material on record to summon the present petitioner on application under Section 319 Cr.P.C. and do not find any illegality or irregularity committed by the learned trial Court for the summoning of the additional accused. Therefore, the impugned order dated 01.02.2024 passed by the learned trial Court is accordingly upheld and the revision preferred by the petitioner is accordingly, dismissed.
10. The aforesaid observation is only for the purpose of deciding the present revision petition. The case will be decided on merits after recording of evidence.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

18.07.2024
Ramandeep Singh

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