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

CRR-2510-2018

DATE OF DECISION: 19.07.2024

RAMESH

...PETITIONER

Versus

ANSHU AND OTHERS

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sweta Benniwal, Advocate for
Mr. Aman Pal, Advocate for the petitioner(s).
Mr. S.S. Pannu, Addl. A.G, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This revision petition has been filed against the impugned order dated 29.05.2018 passed by Addl. Sessions Judge, Jind vide which the application under Section 319 Cr.P.C. has been filed by the petitioner through State Counsel was got dismissed without appreciating the material facts available on record.

Learned counsel for the petitioner contends that the impugned order dated 29.05.2018 passed by Addl. Sessions Judge, Jind dismissing the application under Section 319 Cr.P.C. preferred by the petitioner to summon Sunita wife of Karam Pal Dhull @ Kaimpal, Anshu son of Karam Pal Dhull @ Kaimpal without mentioning any reason and recording assertion made by the petitioner is wrong in the eyes of law.

The said order has been assailed while drawing attention of this Court to the specific role attributed to the proposed accused



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Sunita and Anshu with the support of narrated facts in the FIR which can be read as under :-

'Stated that I am an agriculturist and resident of the above noted address. We are three brothers and four sisters. I am the youngest of them all. Yesterday on 23.10.2016 I and Raj Singh s/o Sh. Moji Ram caste Jat R/o Ramkali, who is my brother and Monu son of Sh. Bijender Caste Jat R/o Nizampur Majra, Distt. Sonapat who is my nephew we all were going to Tohana towards our village, when we reached Jind, then I called up Karam Dhull s/o Sh. Roshan caste Jat r/o Ikash Hall New Krishan Colony (Dhul Service Station Rohtak Road Bypass), Jind on his phone and asked him if he was present in his home. As I had to clear my accounts due towards him and he told me that he is present at home and he will clear all accounts. As we had a transaction with Karampal Dhul with regard to Rs.8,50,000/- which I had to take from him. Thereafter we three went to Karam Dhull's house in my Rits Car No.HR-31-6195 at about 8.30 PM and went into the office of Karam Dhull which was constructed in the basement and car was parked in front of his gate. In his office Karam Pal Dhull, his son Ashu alongwith his wife and two other lady and four other persons whom I don't know were also present. Our conversation regarding to the transaction lasted about 10 minutes. That During our conversation Karampal Dhull lost his temper and rushed towards almirah saying I will give your money and took out his licenced revolver/pistol from his almirah and placed it towards me then my brother Raj Singh along with my nephew Monu including me begged for our life and said not to shoot, we can solve this matter with talks then I stood up on the beg placed inside the office and begged for life and Raj Singh also tried to convince Karam Pal but he didn't listen and Karam Pal's son Ashu caught hold me from behind and Karam Pal Dhull with intention to kill me at that point of time fired a shot towards me which hit me on my left arm and the very movement when the shot hit me Karam Pal Dhull raised Lalkara caught them all no one shall go alive from here, thereafter Karam Pal's son Ashu, his wife and four other persons present there alongwith two ladies started throwing slaps and punches on us then we somehow managed to save our life by running towards the car, while we were running towards car, the above mentioned persons attacked us and broke the glasses of my car with stone and lathi. Then we somehow managed to save our life and run from there. Raj Singh

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and Monu somehow arranged a vehicle for me and took me for treatment to Govt. Hospital where doctor gave me first aid and referred me to PGI Khanpur Kalan whereas my family members took me towards to PGIMS Rohtak where I am under treatment at present, Raj Singh and Monu have minor injuries. Karam Pal Dhull fired shot from his pistol with the intention to kill me and his son Ashu caught hold of me from behind and other above mentioned persons injured Raj Singh and Monu by slapping and punching them. Strict legal action be taken against them. Statement written, is correct. Ramesh Kumar attested Dilbagh Singh ASI, PP Rohtak Road Jind Dt. 24.06.2016. Police Investigation: Yesterday dated 23.06.2016 a telephonic call from control room Jind was received in P.P. Rohtak Road Jind and information was received that Ramesh s/o Sh. Surat Singh caste Jat R/o Ramkali has been referred by GH Jind to PGI Khanpur due to gunshot injury and send I/O for investigation. Ruqa regarding MLR of the complainant from PP Jind was received and on this information I ASI alongwith CT Vinod No. 469 for investigation reached at General Hospital, Jind and Ruqa and MLR issued from doctor was received and due to ODD hours and non availability of conveyance investigation could not brought into motion. So today, dated 24.06.2016 I ASI along with HC Deepak Kumar No.93, according to the statement is leaving for Khanpur Kalan PGI and on way complainant Ramesh was contacted via telephone then we came to know that complainant has been admitted to PGIMS Rohtak for treatment and not to PGI Khanpur Kalan. Thereafter I ASI and HC sought opinion from the doctor regarding the complainant Ramesh on which Doctor gave his opinion that he is fit for statement. Thereafter we reached near the bed of the complainant and recorded above said statement, which has been recorded word by word, line by line was read over and explained and he acknowledged his statement and appended his signature in Hindi under the statement which was attested by I ASI and vide MLR No.PG/GH Jind/226/16 Dt. 23.06.2016 regarding Ramesh in which Doctor has shown two injuries and in these injuries it is written as KUO and AFTER BALLISTIC EXPERT OPINION and for injury No.2 ADD XRAY and injury No.1 also ADD XRAY and both the injuries have been kept for ortho opinion. From the statement of the complainant and ruqa received from the doctor and concluded MLR an offence under Section 323/307/148/149 IPC and 27-54-59 Arms Act have been made out and for investigation HC Deepak Kumar No.93 is sent to Police station. FIR be registered and same be brought into notice. FSL team be informed to leave for spot at new

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Krishna Colony Rohtak Road Bye-pass Jind. I ASI and eye witness Raj Singh are leaving for spot for investigation. Today PGIMS Rohtak Sd/- Dilbag Singh PP Rohtak Road, Jind dt. 24.06.2016 at 3.00 today Police Station FIR No.493 dated 24.06.2016 u/s 323, 307, 148, 149 IPC and 24-54-59 Arms Act P.S. City Jind has been registered. FIR prepared via computer is being sent to Duty Magistrate and other officials. Copy of the police file as well as original is being sent to the I/O on spot.'

A perusal of the FIR depicts that on the date of occurrence i.e. 23.10.2016, the complainant-petitioner went to the house of Karam Pal Dhull @ Kaimpal along with his wife Sunita and Anshu and other two ladies and four persons were present there.

However, brevity of contents of the FIR is discussed here.

The specific role coming forth on the bare reading of the FIR qua Sunita w/o Karam Pal and Anshu are well narrated to the effect that Anshu caught hold of the complainant from behind and Karam Pal Dhull @ Kaimpal with an intention to kill, at that point of time fired a shot towards him which hit on the left arm and at that very moment when shot hit him, Karam Pal Dhull @ Kaimpal raised Lalkara that no one shall go alive from there. At this stage, Sunita-wife of Karam Pal, Anshul and four other persons and two ladies started slapping and punches upon the complainant side who somehow managed to save themselves.

The occurrence has the support of medico legal report wherein it is specified that complainant has suffered multiple injuries in the scuffle.



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This Court can make out after perusing the FIR that the Trial Court has not gone through this aspect and rather by passing a cryptic order dismissed the application under Section 319 Cr.P.C. without assigning any reason for the same except putting reliance on the enquiry report made by investigating officer where nothing incriminating material was found against the proposed accused Sunita and Anshu apart from that reliance upon judgment passed in '*Hardeep Singh vs. State of Punjab and ors.*, reported as 2014 Law Hearld. Org.522' has been placed upon.

Therefore, the impugned order dated 29.05.2018, in light of the above, being absolutely non-speaking and without any reasons recorded therein is hereby quashed. The Trial Court is directed to adjudicate on the application under Section 319 Cr.P.C. filed by the petitioner afresh by passing a speaking order by discussing the incriminating material if any so produced by the petitioner. Fresh order shall be passed within two months from the date of receipt of certified copy of this order.

Petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

19.07.2024
anuradha

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