



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

114

CRR-1385-2024

Date of decision: 29.07.2024

Raman @ Ramandeep

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Zorawar S. Chauhan, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The petitioner-accused is impugning the order dated 25.04.2024 passed by learned Additional Sessions Judge, Yamunanagar vide which he has been summoned as an additional accused under Section 319 of the Cr.P.C., to face trial in FIR No.174 dated 15.06.2023 under Sections 201, 307, 323, 326, 34, 506 of the IPC registered at Police Station Chhapar, District Yamuna Nagar (Annexure P-2).

2. It has been submitted by learned counsel for the petitioner that the learned Trial Court had erroneously summoned the petitioner, who is working as an Assistant Manager at HDFC Bank, as additional accused, without considering the insufficiency of evidence connecting him to the alleged crime.

3. It has further been argued by the learned counsel that on 13.06.2023, respondent No.2-Amardeep (hereinafter referred to as 'injured') was brought to the Civil Hospital, Jagadhri, allegedly in a critical condition, and subsequently referred to Civil Hospital,



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Yamunanagar, and then to PGI Chandigarh. On 15.06.2023, brother of the injured, Karan (hereinafter referred to as 'complainant') lodged a complaint with the police leading to the registration of the FIR in question. The complainant alleged that on 13.06.2023, his injured brother had called him over his mobile phone and informed him that accused Udeyveer @ Golu and Ajay @ Kala along with two other persons, had assaulted him. During this phone call, the injured suddenly stopped speaking. Upon reaching his house, the complainant immediately removed the injured to the hospital. It has been further argued by learned counsel that it was not until 01.08.2023 that a statement of the injured was recorded under Section 161 of the Cr.P.C., in which he, for the first time, implicated the petitioner as one of the assailants. However, the other alleged eye witnesses to the occurrence in question while recording statements under Section 161 of the Cr.P.C. did not mention the involvement of the petitioner in the crime in question, although they named the three other accused persons. Consequently, the investigating agency rightly did not present any challan against the petitioner and placed him in column No.2. Learned counsel has still further argued that, however, during his testimony before the learned Trial Court injured while testifying as PW-1 levelled false allegations against the petitioner of having participated in the occurrence in question along with other accused, leading to an application under Section 319 of the Cr.P.C., which was allowed vide the impugned order.

4. It has, therefore, been urged by the learned counsel for the



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petitioner that it was evidently a case of false implication as firstly his name surfaced 45 days after the occurrence in question, solely in the statement of the injured; the complainant while lodging the FIR did not even by way of a whisper hint towards the involvement of the petitioner in the crime in question nor did any eye witness to the occurrence level any allegations against him. A prayer has, therefore, been made for setting aside the impugned order by asserting that it was contrary to the parameters laid down by Hon'ble the Supreme Court in ***Hardeep Singh Vs. State of Punjab, (Constitution Bench) : 2014(3) SCC 92.***

5. I have heard learned counsel for the petitioner and perused the relevant material on record.

6. In ***Hardeep Singh's case (supra)***, Hon'ble the Supreme Court clarified as to what would be needed to establish a prima facie case against an accused. As per the ratio of law laid down by Hon'ble the Supreme Court in ***Hardeep Singh's case (supra)*** a prima facie case is one with enough initial evidence to justify continuing with legal proceedings. This standard does not require proof beyond a reasonable doubt but must be strong enough to warrant further investigation. Hon'ble the Supreme Court further highlighted that the evidence for a prima facie case must be more than a mere indication or slight possibility of the involvement of an accused. It should be strong enough to reasonably suggest the involvement of the accused in the alleged crime even if he has not been cross examined.

7. In ***Ramesh Chandra Srivastava Vs. The State of U.P. and another : 2021 SCC OnLine (SC) 741***, Hon'ble the Supreme Court



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while dealing with the provisions of Section 319 of the Cr.P.C. held that this provision of law ensures that all persons involved in a crime are brought to justice, even if they were not initially named in the charge sheet. Hon'ble the Supreme Court explained that the evidence required to summon additional accused must be stronger than that needed to prove a prima facie case but not as conclusive as proof beyond a reasonable doubt. As per Hon'ble the Supreme Court this standard would ensure that the learned Trial Court acted based on solid and credible evidence rather than mere suspicion, balancing the need to hold all guilty parties accountable while protecting persons from unwarranted harassment.

8. As per the above judicial pronouncements, a careful and balanced approach is required while dealing with an application under Section 319 of the Cr.P.C. Hence, before proceeding further, it would be relevant to reproduce the allegations levelled in the FIR which has been annexed as Annexure P-2, which are reproduced as under:-

“Copy of the Complaint is as follows Incharge Police Post Panchtithi, PS Chhapar. Sir it is submitted that I am Karan son of Mitrapal resident of Village Sialba PS Chhapar and from last about 3 years I am living with my family ITI Sasoli Road, Tilaknagar Farakpur. My brother Amardeep, who is younger then me, lives in the village alone. That on 13.06.2023 at about 06:30 PM, my brother from his mobile no.7419010238 called on my phone that outside the house Ajay @ Kala and Udeyveer @ Golu and 2 other persons have badly beating me with sticks and have injured me and while going they have also given threat that "we will not spare you". After this he got mute while speaking. After that I reached my house at Sialba in my car. Upon reaching I saw that my younger brother soaked in blood is lying unconscious on the floor. After that I called on phone no.112 and called the Police, police immediately reached the village, after that taking help of police officers, I made my brother lie down in the car and



took him to Civil Hospital Jagadhari, where the Doctors upon seeing the condition of my brother referred him to civil hospital. After that I reached Civil Hospital Yamunanagar with my brother. Where doctor upon seeing the condition of my brother referred him to PGI Sector 12 Chandigarh. That my brother is admitted in PGI at present and he is still unconscious. He has suffered a grievous injury on his head. Kindly take legal action against accused persons. I will be thankful. Sd/ Karan Singh 80534-80322.”

9. A perusal of the contents of the FIR reveals that the complainant received a phone call from his injured brother and immediately thereafter went to his house. Upon arrival, the complainant found the injured unconscious and covered in blood. The injured was promptly removed to the hospital with multiple serious injuries and it is a matter of record that he remained unconscious for some time. It was only after regaining conscious and being declared fit, the injured gave a statement under Section 161 of the Cr.P.C., in which he detailed the entire occurrence in question, including the specific role of the petitioner in the crime in question.

10. The arguments presented by the learned counsel for the petitioner that the petitioner was not named by the complainant in the FIR holds no merit. It is undisputed that the complainant was not an eye witness to the crime. Instead, he was informed by the injured over the phone, prompting him to rush to his brother's house and subsequently removed him to the hospital in an unconscious state. As per the allegations in the FIR itself, the injured mentioned the names of accused Udeyveer @ Golu and Ajay @ Kala and along with two others who inflicted injuries upon him. Furthermore, during investigation

statements made by the co-accused also identified the petitioner as being one of the unknown assailants who had attacked the injured. Furthermore and most pertinently while stepping into the witness box as PW-1, respondent No.2-injured, who was attacked by accused Udeyveer @ Golu and Ajay @ Kala and two others reiterated the role played by the petitioner in the crime in question, and without doubt his testimony would be on a higher pedestal than the complainant as well as some other alleged eye witnesses, for the purpose of deciding an application under Section 319 of the Cr.P.C.

11. Given the facts and circumstances of the case and considering the lack of any cogent evidence presented by the police in the charge sheet justifying the exoneration of the petitioner, the impugned order comes across as a well reasoned one, which does not warrant any interference. Accordingly, the instant petition is hereby dismissed.

12. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

29.07.2024

Vinay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(MANJARI NEHRU KAUL)

JUDGE