



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

CRR-2128-2022 (O&M)
Date of decision: 13.11.2024

Lalita Rani @ Lalita Dhamija and another ...Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Jai Vir Yadav, Sr. Advocate with
Mr. Aman Gautam, Advocate for the petitioners.

Mr. P.K. Aggarwal, DAG, Haryana.

Mr. Sunil Bhardwaj, Advocate for respondent No.2.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioners against the order dated 03.09.2022 passed by the Court of learned Sessions Judge, Fatehabad vide which the petitioners have been summoned as additional accused in a criminal case having FIR No.166 dated 18.07.2020, under Sections 323, 341, 328, 307, 506, 447, 120-B read with Section 34 IPC, Police Station Sadar Ratia, District Fatehabad.

2. The brief facts of the case are that complainant/respondent No.2 Yudhishter recorded his statement with the police to the effect that their family was having 50 acres of land out of which 10 acres was cultivated by his brother Ghanshyam while he himself was also cultivating another 10 acres of land which was given to him by his mother Lilawati. That on 10.07.2020, at about 10 AM, he along with his wife Shobha went to



the fields and in the evening, their son Rohit also reached there at about 5 PM. In the meantime, Hardik son of Ghanshyam, Harshit son of Sanjay and Lovish friend of Hardik also came there. Hardik started damaging the crop which was growing in the fields. Shobha raised objection on which Hardik altercation with her. Then Hardik made telephone call to police post Nagpur. On this, Shobha and Rohit went to the said police post. Hardik again started damaging the crop to which complainant raised objection. Hardik Started fighting with complainant and threatened to kill him and then Hardik brought one glass bottle and after throwing the complainant on ground, Lovish caught both the legs of complainant while Harshit caught him from both his hands and Hardik forcibly poured some poisonous substance which was there in the glass bottle, in his mouth. In the meantime, Shobha and Rohit also reached there who handled the complainant and took him to the Civil Hospital, Fatehabad from where he was referred to MAMC, Agroha. Ghanshyam, his sister Lalita and Rakesh Kumar husband of Lalita also used to give threats to the complainant, to vacate the land in question. In this manner, FIR was registered against Hardik, Harshit, Lovish, Ghanshyam, Lalita, Rakesh Kumar and Pushkar son of Ghanshyam. During investigation, both the petitioners namely Lalita and Rakesh Kumar were found innocent and as such were not challaned by the police. During trial against the other accused persons, examination in chief of complainant was recorded and thereafter, application under Section 319 Cr.P.C. to summon the petitioners and Lovish Kumar as additional accused was filed by the prosecution. The same was allowed by the trial Court vide its order dated 03.09.2022 and both the petitioners and Lovish Kumar were summoned as



additional accused.

3. Being aggrieved, petitioners Lalita and Rakesh Kumar have filed by the present petition.

4. The counsel for the petitioners submits that it could be easily made out that at the time of alleged occurrence, both the petitioners were not present at the spot. The only allegations against the petitioners are that they were extending threats to cause harm to the complainant and asked him to vacate the land in question. That no specific date, month and year of any such incident when the alleged threats were extended, are given in the FIR or in the supplementary statement of the complainant. It is further submitted that there was no ground for the trial Court to summon the petitioners as additional accused on the basis of vague and general allegations. In support of his contentions, counsel for the petitioners has placed reliance upon the judgment of Hon'ble Supreme Court in ***Hardeep Singh Vs. State of Punjab and others 2014 (3) SCC 92.***

5. The present petition is resisted by the State counsel and counsel for respondent No.2. Both the counsels supported the impugned order and further submitted that petitioners and Lovish were rightly summoned by the trial Court to face trial along with other accused persons. It is further submitted that the present petition deserves to be dismissed being devoid of merits.

6. I have considered the submissions made by counsel for the parties.

7. The constitution Bench of Honble Supreme Court in **Hardeep Singh's case** (supra) observed that the power under Section 319 Cr.P.C



ought be exercised sparingly and would require much stronger evidence than near probability of the accused person's complicity. The test elucidated by the Constitution Bench is as follows:-

"The test has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction."

8. Now adverting to the facts of the present case, it is apparent that both the petitioners were not present at the time of occurrence which took place on 10.07.2020. The only allegations leveled against the present petitioners are that they were extending threats to the complainant to vacate the land in question or otherwise to face dire consequences. There is nothing specific as to on which date, month and year, such threats were given by the petitioners to the complainant. Except for aforesaid alleged threats being extended by the petitioners, there are no other allegations against them. If the evidence already available on record is considered on touchstone of law laid down in **Hardeep Singh's case** (supra), it cannot be said that the prosecution is able to establish more than *prima facie* case against the petitioners as the material available on the record was not sufficient for summoning the petitioners as additional accused persons under Section 319 Cr.P.C. Thus, the impugned order is not sustainable being not passed in consonance with the settled position of law as laid down in **Hardeep Singh's case** (supra).

9. For the foregoing reasons, the present petition is allowed and the impugned order dated 03.09.2022 is set aside qua both the petitioners only. The observations made herein above are meant only for the disposal of the present petition.

13.11.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No