



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

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**CRR-851-2019 (O&M)
Date of decision: 15.01.2025**

Krishan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Akash Vashisth, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sumit Sangwan, Advocate
for respondents No. 2 and 3.

MANISHA BATRA, J. (Oral)

1. The instant revision petition has been filed by the petitioner challenging the order dated 04.02.2019, passed by the Court of learned Sessions Judge, Bhiwani in Sessions Case No. 276 of 2017, titled as ***State vs. Ravinder and another***, arising out of FIR No. 174 dated 03.04.2017, registered under Sections 307, 325, 323 read with Section 34 of IPC at Police Station Sadar Bhiwani, whereby an application, filed by the petitioner under Section 311 of the Code of Criminal Procedure (*for short 'the Code'*) had been partly allowed.

2. Brief facts of the case relevant for the purpose of disposal of the present revision petition are that the aforementioned FIR had been registered on the basis of a complaint lodged by complainant/petitioner Krishan Kumar on 02.05.2016 alleging therein that on 01.05.2016, accused Ravinder, Umed

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Singh and Nanita had entered into the land owned and cultivated by him since long and had started ploughing the same. When he came to know about the same, he along with his family members had reached at the spot, where the assailants, who were armed with weapons, had inflicted injuries on his family members and himself and had then fled away from there on a tractor. He also alleged that the tractor had fallen in a rainy drain adjacent to the passage after a distance of 2 ½ acre from his fields at the time when they were going to the hospital for their treatment. After registration of the FIR, investigation proceedings were initiated. Accused persons were arrested and then released on bail. During trial, the petitioner moved an application under Section 311 of the Code (Annexure P-15) for summoning 08 persons, whose names and details are mentioned in para No. 7 of the application, as witnesses by way of additional evidence. The respondents/accused resisted the same by filing reply. By passing impugned order, the said application had been partly allowed to the extent, to which, prayer made for summoning the Halqa Patwari of village Kharak Kalan as a witness was concerned, whereas the relief claimed by the petitioner for summoning remaining persons mentioned in the application as witnesses was declined. Feeling aggrieved from the impugned order, the present revision petition has been filed.

3. It is argued by learned counsel for the petitioner that he had lodged a complaint before the police on 02.05.2016 but the FIR had not been registered by the police in connivance with accused but had lodged the FIR No. 258 dated 01.05.2016, under Sections 147, 148, 149, 323, 506, 302, 120-B of IPC as against the petitioner and his family members. It was only

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after the direction given by this Court, vide order dated 15.03.2017 in CRM-M-7704-2017, that FIR No. 174 had been registered on 03.04.2017. However, the investigation had not been conducted by the police in a fair and impartial manner and challan in case arising out of FIR No. 174 was presented in the Court in haste. It is a case of version and cross version. The proposed witnesses, who are mentioned in the application, had appeared during the course of inquiry before Inquiry Officer and had recorded their statements. The names of two of these witnesses, namely Ram Pal and Bala Devi, were mentioned in the statements of Rohit and Khazani Devi as recorded under Section 161 of the Code. Despite the fact that the proposed witnesses had recorded their statements during inquiry, the Investigating Officer had not included the names of these persons as witnesses in the list of witnesses. The examination of these witnesses was necessary for just and proper decision of the case and for the purpose of proving that the tractor, driven by the accused persons, had fallen in the ditch at its own and it was not hit by any vehicle of the petitioner as alleged in FIR No. 2585. While passing the impugned order, the learned Sessions Judge did not take all these points into consideration and wrongly observed that the proposed witnesses were not required to be summoned. With these broad submissions, it is urged that the impugned order is liable to be set aside, the application filed by the petitioner under Section 311 of the Code deserves to be allowed in *toto* and he deserves to examine the witnesses, whose names are mentioned in the said application.

4. Learned Assistant Advocate General, Haryana, appearing on behalf of respondent-State, has not raised any serious objection to the prayer



made by the petitioner.

5. Learned counsel for respondents No. 2 and 3, who are accused in FIR No. 174, has vehemently argued that no ground has been made out for allowing the petition. It is submitted that the persons, whose names had been mentioned in the application, are sought to be cited and summoned as witnesses by the petitioner only with a view to collect evidence in his favour. In fact, none of these persons were present at the spot. In his complaint filed on 02.05.2016, the petitioner/complainant had not mentioned about the presence of these persons at the spot of occurrence. In fact, they are planted by the petitioner and are sought to be examined as such. The findings as recorded by the learned Sessions Judge are well reasoned and do not warrant any interference. Even otherwise, no ground has been made out for allowing the application since they were not cited in the list of witnesses. The petitioner has not explained as to how the examination of these witnesses is necessary for just decision of the case. Accordingly, it is urged that the petition is liable to be dismissed, being devoid of any merit.

6. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

7. On a perusal of the material placed on record, it has been revealed that as on 01.05.2016, aforementioned FIR bearing No. 258 had been registered against the present petitioner and his family members on the basis of a complaint filed by complainant Nanita Devi, who is respondent No. 3 in this petition, Ravinder was cultivating the same and she was cutting the grass. She alleged that the petitioner had hit her father-in-law Umed Singh with the tractor, which he was driving, with intention to kill him and

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thereafter, they had opened an assault upon her father-in-law by causing injuries on his persons with weapons that they were having at that time. She further alleged that the petitioner and his family members had also struck a blow and caused injuries on the persons of her husband and had extended beatings to her as well. Her husband and father-in-law were rushed to the hospital but her father-in-law succumbed to the injuries sustained by him. After registration of the FIR, investigation proceedings were initiated. As mentioned above, the petitioner also filed a complaint on 02.05.2016 but no action was taken by the police on his complaint. The petitioner had then approached this Court by filing a petition bearing number **CRM-M-7704-2017**. After filing of the said petition, FIR No.174 was registered on the complaint of the petitioner under Sections 307, 325, 323 read with Section 34 of IPC as against respondents No. 2 and 3.

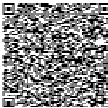
8. The petitioner had filed an application under Section 311 of the Code before the learned trial Court making prayer for summoning 08 persons, whose names and details are mentioned in the application, as witnesses by submitting that names of eye-witnesses Rohit and Khazani Devi are already mentioned in the list of witnesses and in their statements recorded under Section 161 of the Code, they had mentioned Ram Pal and Bala Devi to be the eye-witnesses but they were not cited as such. With regard to other proposed witnesses, it was submitted that their examination as such was necessary to prove that the petitioner had not brought any tractor in his fields and the only tractor, which was present in the fields, was belonging to respondents No. 2 and 3 and also to prove that the occurrence had not taken place in the manner as alleged by the respondents/accused.

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Copies of the statements of witnesses Rohit and Khazani Devi, recorded under Section 161 of the Code, have been placed on record by the petitioner as Annexures P-13 and P-14, respectively. A perusal of the same reveals that both of these eye-witnesses had stated therein that Ram Pal and Bala Devi had reached at the spot when the occurrence was taking place and had rescued them. Copy of challan report has also been placed on record and it shows that the names of Ram Pal and Bala Devi have not been cited in the list of witnesses. However, so far as the remaining persons, namely Sandeep, Hanuman @ Hanu, Rajnish and Vikram Singh, who are sought to be summoned as witnesses are concerned, the same are not mentioned in the statements of these witnesses or in the complaint lodged by the petitioner or anywhere else in the record. The claim of the petitioner that these persons had joined the inquiry is of no relevance as no such inquiry report had been placed on record either before the Court of learned Sessions Judge or before this Court. The learned Sessions Judge, while passing the impugned order, had taken into consideration all these facts and had rejected the plea of the petitioner. On a careful consideration of the record, I am of the considered opinion that so far as Ram Pal and Bala Devi are concerned, since their names find mention in the statements of eye-witnesses Rohit and Khazani Devi and it was categorically mentioned therein that they had reached at the spot of occurrence at the relevant time, therefore, their examination as such was relevant for the purpose of just decision of the case and it cannot be said that they were unnecessary or their examination as such had no relevance. However, so far as the remaining persons are concerned, since the petitioner has not been able to explain as to how their examination was relevant for the

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purpose of just decision of the case, therefore, I find no reason to accept the prayer made by the petitioner to that extent.

9. With the aforesaid observations but without meaning to make any comment on the merits of the case, the present petition is partly allowed and the prayer made by the petitioner for citing the names of Ram Pal and Bala Devi as witnesses is accepted and they are ordered to be cited as such in the list of witnesses and be examined as such.

15.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No