



CRR No.1061 of 2024 -1-

S. No.257

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

**CRR No.1061 of 2024
Reserved on:17.09.2025.
Pronounced on: 23.09.2025**

**Sunita and another
Vs.
State of Haryana**

**.....Petitioners

.....Respondent**

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued By:-Mr. S.S. Mor, Advocate for the petitioners.

Mr. Ramesh Kumar Ambavta, DAG, Haryana.

Mr. Amit Khatkar, Advocate for respondent No.2/
complainant.

Yashvir Singh Rathor, J.

1. This petition is directed against the order dated 02.05.2024 vide which the petitioners have been summoned to face the trial by the Court of learned Additional Sessions Judge, Charkhi Dadri after the case was committed to the Court of Sessions for trial in terms of Section 193 Cr.P.C.

2. The present case was registered on the basis of statement given to the police by Naveen son of Balwan Singh with the allegations that on 29.11.2023 at about 08:00 a.m., his father had gone to the fields and regarding this very land, a litigation is going on in the Court with Sombir son of Mange Ram, his aunt Amar Kala wife of Sukhbir and Bijanta wife of Narender. After sometime, some woman came at his house and informed him that Sombir son of Mange Ram, is causing



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injuries to his father with an axe on which he along with his family members reached in the fields and saw that Sombir was giving blows to his father continuously with one ice-axe on his leg as well as on the head. He raised an alarm “Maar Diya, Maar Diya” and on hearing this and presuming his father to be dead, Sombir ran away from the spot on his Pulsar motor-cycle along with the weapon in his possession. Thereafter, he and his family members took care of his father who had become unconscious and a lot of blood was oozing out from the wounds. He was taken to the Government Hospital, Dadri in a car from where he was referred to PGIMS, Rohtak for better treatment. However, he took his father to RR Hospital, Delhi and thereafter, he took him to Park Hospital, Palm Vihar, Gurugram due to non-availability of Orthopaedician in RR Hospital, where his father is receiving the treatment. He alleged that Sombir continuously attacked his father with ice-axe on his head and legs with an intention to kill him. He further alleged that Sunita wife of Sombir and his both sons Ankit and Aman and his both sisters Bijanta and Amarkala also assisted Sombir by hatching a conspiracy and provoked him to do so on account of civil litigation going on between the parties and they had earlier also threatened them. After this incident, when he was at Delhi along with his father, Sunita wife of Sombir and Sombir’s brother-in-law Krishan’s son Dhila had come in front of their house and proclaimed that they have killed one and now its their turn and in case, they want to save themselves, they should leave the land and his sister Kavita informed him in this regard. He alleged that these persons want to kill his father and their family and he sought action against them. On the basis of this information, formal FIR was registered and the matter was investigated. Rough site plan of the place of



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occurrence was prepared. Injured was got medico legally examined and his treatment record was taken into possession. Statements of witnesses including that of injured Balwan were recorded. After completion of investigation, final report was presented against accused Sombir while remaining accused named in the FIR namely Ankit, Aman sons of Sombir, Sunita wife of Sombir were found to be innocent as they were present in their house while Amarkala was found to be present in Charkhi Dadri, Bijanta was found to be present in Village Barwas District Bhiwani and Sombir alias Dhila was found to be present in Village Dhaniya and they were also not found to be involved in the occurrence. It was also found that no evidence has come that they had hatched any conspiracy punishable under Section 120-B IPC.

3. After presentation of challan, the case was committed to the Court of Sessions for trial and when the case was fixed for framing of charge, the Court of learned Additional Sessions Judge, Charkhi Dadri took cognizance of offence against accused Ankit and Sunita as well & summoned them to face the trial and the following order was passed:-

“Accused has been produced before me in custody.

Arguments on charge not advanced. Perusal of record shows that injured Sombir in his statement dated 12.12.2023 has specifically named accused Ankit and Sunita that they alongwith accused Sombir came on a motorcycle and assaulted him with sharp edged weapons. However, they were exonerated by the police while holding that their involvement is not found. Nothing has been mentioned in support of said conclusion by the police in final report under Section 173 Cr.P.C.



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and they were kept in column No.12. In view of aforesaid discussions, I take cognizance of offence against accused Ankit and Sunita. Let, they be summoned for facing trial in this case alongwith co-accused Sombir for 12.07.2024.

Till then, accused be kept in judicial custody and be produced before the Court on the date fixed.”

Sd/-
(Purushottam Kumar),
Addl. Sessions Judge,
Charkhi Dadri
(UID No.HR-0489)

Dated: -02.05.2024”

4. Feeling aggrieved, revision in hand has been instituted and learned counsel for the petitioner as well as learned State Counsel assisted by learned counsel for the complainant have been heard. Power of Attorney filed on behalf of the complainant has been taken on record.

5. Learned counsel for the petitioner argued that the impugned order is cryptic, non-speaking and un-reasoned and has been passed in a mechanical manner without application of judicial mind. Learned trial Court has erroneously exercised the power vested in it under Section 193 Cr.P.C to summon the petitioners as accused after the case was committed to the Court of Sessions for trial in terms of Section 193 Cr.P.C whereas the police after conducting thorough investigation had found the petitioners to be innocent. Even in the FIR, lodged by Naveen, who is son of the injured, it was nowhere alleged that the petitioners were present at the time victim was assaulted by the main accused, namely, Sombir and the only allegations against them were that they had hatched a conspiracy with the



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main accused in committing the crime. However, when the statement of the injured namely Balwan was recorded by the police under Section 161 Cr.P.C, he had alleged that Ankit and Sombir's wife took out sharp weapons from their motor-cycle and had caused injuries to him with axe, sharp edged weapon made of steel known as ice-axe and with dandas. However, this part of the statement of injured Balwan Singh was contrary to the contents of the FIR which was lodged by none else but his own son namely, Naveen, who too claimed to have witnessed the occurrence and the version in the FIR is thus contrary to the contents of the statement given to police by injured Balwan Singh. Had they assaulted the victim, this fact must have been mentioned in the FIR by the complainant but there is not a whisper in the FIR that the petitioners were present at the spot and had assaulted the injured namely Balwan. Rather, they were named by the injured namely Balwan as an after-thought taking advantage of delay in recording his statement under Section 161 Cr.P.C which was recorded on 12.12.2023 after a delay of 13 days. Learned counsel further contended that police after conducting thorough investigation had found the petitioners to be innocent but learned trial Court without going through the material on file and without application of mind, summoned them to face the trial in exercise of powers vested in the Court under Section 193 Cr.P.C whereas their complicity in committing the crime is not even remotely established. Learned counsel contended that the impugned order is thus not sustainable and is liable to be set aside. In support of his contentions, learned counsel has cited AIR 2013 SC 3018 – **Dharampal Vs. State of Haryana**, AIR 2016 SC 2266 – **Dalbir Singh Vs. State of Rajasthan** and 2024(3) RCR (Crl.) 382 – **Gautam Sharma Vs. State of Punjab**.



6. On the other hand, learned State Counsel assisted by the counsel for the complainant argued that the learned trial Court has passed the order after going through the material on record and by applying its mind. The impugned order shows that the learned trial Court had taken into consideration the statement made by the injured to come to the conclusion that they too have committed the offence along with the main accused, namely, Sombir and this power can be exercised by the Court of Sessions after the case is committed to it for trial and before framing of charge in terms of Section 193 Cr.P.C. Learned counsel contended that the impugned order is well-reasoned and justified and does not call for any interference and that the petition in hand be dismissed.

7. Before proceedings further, it is relevant to reproduce 193 Cr.P.C.:-
“193. (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.

8. The afore-said provision makes it clear that except as otherwise expressly provided by this Court or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code. This provision entails that the case must, first of all, be committed to the Court of Sessions for trial by the Magistrate. The second condition is that only after the case has been committed to it, could the Court of Sessions take cognizance of the offence while exercising original jurisdiction and this



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controversy has been set at rest by a Constitution Bench judgment of the Hon'ble Supreme Court in **Dharampal's case (supra)** in which it has been held that the Court of Sessions can take cognizance of an offence against the persons who have not been arrayed as accused by the police under Section 193 Cr.P.C before framing of charge and once charge has been framed, additional accused can be summoned in exercise of powers under Section 319 Cr.P.C after some evidence is led. It is also immaterial whether a person has been declared innocent by the police during the investigation while filing the final report under Section 173 Cr.P.C. However, while exercising the power under Section 193 Cr.P.C., the Court must be convinced that a prima-facie case is made out against the said persons and their complicity is suspected from the material available on record.

9. Now the point to be seen is as to whether sufficient material was available on the record or not to take cognizance of the offence and to summon the petitioners as additional accused in exercise of powers under Section 193 Cr.P.C or not. The answer is certainly in the negative. In the present case, FIR in question was lodged at the instance of Naveen, who is son of the injured namely Balwan who alleged that his father had gone to the fields on 29.11.2023 and some woman informed him in the Village that Sombir accused is causing injuries to his father and, thereafter, he reached the field along with his family members and saw Sombir causing injuries to his father with ice-axe on his leg and head. When they raised an alarm, Sombir ran away on his motor-cycle. In the later part of the FIR, he has alleged that Sunita wife of Sombir, his both sons Ankit and Aman, and sisters Bijanta and Amarkala also assisted Sombir by hatching a conspiracy and provoked him to do so on account of civil litigation going on between the parties



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and they had been threatening them. As such, he nowhere alleged that any other person was also present at the spot except Sombir and had also caused injuries to his father Balwan. After the injured was discharged from the hospital, the statement of Balwan under Section 161 Cr.P.C was recorded by the police on 12.12.2023 wherein he alleged that on 29.11.2023, he had gone to his fields when Sombir, his son Ankit and wife of Sombir alighted from their motor-cycle and took out sharp edged weapons from their motor-cycle and started causing injuries to him with axe, sharp edged weapon made of steel known as ice-axe and with dandas. It thus shows that two more persons namely Sunita Devi and Ankit Kumar, who are the petitioners, were named by him after a delay of 13 days of lodging of FIR but petitioners were never named as assailants by complainant Naveen in the FIR who had witnessed the incident which is a major discrepancy in the prosecution case. The learned trial Court while summoning the petitioners to face the trial did not consider the entire material on record and no reference has been made to the contents of the FIR lodged by Naveen who is son of the injured wherein no role has been attributed to the petitioners regarding assault. Rather, the trial Court was required to record a satisfaction that a prima-facie case is made out against the petitioners who have been subsequently summoned and that their complicity is prima-facie established from the material available on record. However, no cogent reasons have been recorded while summoning the petitioners to face the trial along with the main accused namely Sombir.

10. In these circumstances, the impugned order cannot be termed as well-reasoned and rather, the same has been passed in a mechanical manner without application of mind & same is thus not sustainable. Resultantly, the impugned



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order dated 02.05.2024 is accordingly set aside. However, it is made clear that the setting aside of the impugned order shall not be a bar on the prosecution to move an application under Section 319 Cr.P.C if any evidence comes against the petitioners during the trial which shall be independently decided without being influenced by the observations made above.

11. Disposed of.

(Yashvir Singh Rathor)
Judge

September 23, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No