

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2427-2018

Date of Decision: 03.07.2025

Vijay Kumar

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arun Gupta, Advocate for
Mr. Rakesh Gupta, Advocate for the petitioner

Mr. Chetan Sharma, DAG Haryana

Mr. Ashit Malik, Advocate for respondent No.2

Sandeep Moudgil, J.

(1). This criminal revision petition has been filed under Section 401 CrPC by the petitioner seeking to quash the order dated 23.05.2018 passed by the trial court vide which the application under Section 319 CrPC has been dismissed.

(2). Learned counsel for the petitioner contends that after registration of the case the investigation was conducted and during the course of investigation also it is stated by the complainant PW-1 to the police that in the aforesaid murder of Satnam Singh besides the accused who were facing trial, Ramesh son of Pala Ram, Raju son of Suchha Singh and Vijay son of Babu Ram (respondents No.2 to 4) were also involved and from the very beginning even a specific role has been attributed to accused Ramesh son of Babu Ram; but despite that in connivance with the aforesaid accused persons the police had not presented the challan against the aforesaid 3 persons.

(3). He further averred that the trial court failed to appreciate the fact that the names of the private respondents including the petitioner had been specifically mentioned by the petitioner-complainant in his statement and there is sufficient evidence on record to proceed against them. It is further contended that the trial has concluded but the application under Section 319 CrPC which was dismissed erroneously by the trial court still leaves the cause of action alive and on that account, he wishes to summon the petitioner.

(4). On the other hand, learned counsel for respondents No.2 to 4 submits that the present petition is not maintainable as the five main accused, namely, Ramesh, Vishal, Roshan Kumar, Sonu and Mintu have already been found guilty and they have been convicted and sentenced to undergo life imprisonment vide judgment dated 09.08.2022 in Sessions Case No.44 of 2020 passed by Addl. Sessions Judge, Karnal, a copy of which has been handed over in Court.

(5). He placed reliance on the judgment of the Supreme Court in **Devendra Kumar Pal vs. State of UP & Anr., 2024 SCC OnLine SC 2487** wherein it was held that if a summoning order is passed, either after the order of acquittal or imposing of sentence, the same may not be sustainable and the trial court is bound to examine the facts and circumstances of the case.

(6). Heard learned counsel for the parties.

(7). It is evident that the trial court took note of the fact that in the initial statement made by complainant PW1 Vijay, he stated that when he and Goldy had gone to the Assandh road for a walk, where Ramesh, Vishal, Vijay and 2-3 boys were standing but in the statement before the court he disclosed the names of all the nine accused persons standing at the place of occurrence.

The trial court observed that the complainant was not certain whether persons sought to be summoned, were also one of those persons who had attacked the deceased or not and that during investigation, I.O. had not found anything against the additional accused persons sought to be summoned i.e. respondents No.2 to 4. The trial court thus rightly observed that since Vijay complainant has already been examined by the prosecution as PW1 and that nothing new has come in the court file so that the accused Vijay son of Babu Ram, Raju son of Sucha Singh and Ramesh son of Pala Ram could be summoned, therefore, there exists no possibility that the respondents No.2 to 4 in all likelihood would be convicted. The relevant observations of the trial court is reproduced as under:-

“9. From the entire evidence led by the prosecution, no case of commission of an offence under the alleged sections for which accused Ramesh etc. have been charge sheeted is made out against the persons sought to be summoned as additional accused. There exists no possibility that the accused so summoned in all likelihood would be convicted. Learned Public Prosecutor has already examined Vijay as PW1. Since complainant has already been examined and nothing new has come in the court file so that the accused Vijay son of Babu Ram, Raju son of Sucha Singh and Ramesh son of Pala Ram may be summoned. Therefore, summoning of the aforesaid person under section 319 Cr. PC. would entail recommencing the whole proceedings against the aforesaid person and re-examining the witnesses already examined as prosecution has already examined the complainant.”

(8). In view of the fact that the quality of evidence adduced by the prosecution so far as the respondents No.2 to 4 are concerned, it is doubtful that the same would certainly secure a conviction against them and therefore, it would not be proper to subject the respondents No.2 to 4 to face trial in case in

which the main accused have already been convicted and sentenced on the basis of deposition of complainant PW1.

(9). In view of the above discussion, this petition fails and is accordingly dismissed.

03.07.2025
V.Vishal

(Sandeep Moudgil)
Judge

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |