

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

2025:PHHC:091695



(114)

CRR-2731-2023

Decided on : 23.05.2025

Fakruddin

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE SANJAY VASHISTH

Present: Mr.Mazlish Khan, Advocate for the petitioner (s).

Mr.Kanwar Sanjeev Kumar, AAG, Haryana

SANJAY VASHISTH, J. (Oral)

1. Petitioner-Fakruddin, aged 36 years, has filed the instant petition, challenging the order dated 06.11.2023 passed by the Court of Learned Addl.Sessions Judge, Nuh whereby FIR No.565 dated 08.07.2019 under Sections 148, 149, 323, 324, 325, 452, 506 & 307 IPC registered at Police Station Nuh, District Nuh against (i)Usman, (ii)Sahid, (iii)Inam, (iv)Arshad, (v)Abid, (vi)Jabir, (vii)Rasid, (viii)Imrana, (ix)Anisa, (x)Sharifan and (xi)Hussain Khan.

2. After conducting thorough investigation, enquiry report under Section 173 Cr.P.C. was submitted wherein it is specifically recorded that during the course of investigation, accused-(i)Abid, (ii)Saddiq, (iii)Sahid, (iv)Inam and (v)Usman were found involved in the incident, however, remaining named persons namely (i)Rasid, (ii)Jabir, (iii)Arshad, (iv)Anisa, (v)Sarifan, (vi)Imrana and (vii)Hussain Khan were found innocent.

3. During the course of investigation, PW-1, Fakruddin appeared and gave his statement and it is on his application, he prayed for summoning of the remaining accused to be tried with the other co-accused namely, (i)Abid, (ii)Saddiq, (iii)Sahid, (iv)Inam and (v)Usman.

4. It is informed by learned counsel for the petitioner that there are total 5 injuries suffered by the petitioner-Fakruddin and the injuries are as under:

- “(i) Profuse swelling in right eye, blush obstacle, eye closed----Blunt
- (ii) Lacerated wound of 3 cm at end of----Blunt
- (iii) Profuse swelling on right foot----Blunt
- (iv) Incised wound of 3 cm right corner of forehead----Sharp
- (v) Complaint of chest pain, no mark of injury----Blunt”

5. The Trial Court has already dealt with the issue and by referring to the said injuries. Mr.Mazlish Khan, Advocate appearing for the petitioner refers to the order passed by this Court dated 08.08.2024 wherein it was recorded that the petitioner has already withdrawn the present petition qua respondents No.3-Rashid, No.5-Anaisa, No.6-Sharifan, No.7-Imrana and No.8-Hussain Khan. However, he press the petition qua respondents No.2-Jabir and No.4-Arshad.

6. It is noticed by this Court that the Trial Court has already discussed in its impugned order, that the role of each and every accused was examined during the course of investigation. Because the investigation of the case has crossed several stages, firstly, Investigating Officer himself was examined, thereupon, SHO, Sadar Nuh, thereafter, by DCP, Nuh and finally, the investigation was approved by the CIA, Nuh. Petitioner, in fact, wants that the proposed additional accused be summoned as there are sufficient grounds to try them with the already challaned accused who are facing trial.

However, learned counsel for the petitioner is unable to point out any allegation to establish that material which has been brought on record, is sufficient to summon the prospective/additional accused persons because it corroborated the allegations & evidence now brought on record, is of the standard to hold the accused guilty. In fact, the fifth injury is complaint of pain and four of the accused persons are already facing trial, before the trial Court.

7. I have perused the records of the case and heard the submissions made by learned counsel for the parties. The concluding part of the findings in para Nos.14, 15 & 16 of the order dated 06.11.2023 read as under:

“14. In view of submissions and of perusal of record, prospective accused were found innocent by the police after thorough investigation in four stages i.e. first by Investigating Officer, then SHO Sadar Nuh, DCP Nuh and finally by CIA Nuh. It is settled law that prospective/additional accused cannot be summoned merely on the ground that the complainant has retreated his version.

15. There are no specific allegations or prima facie evidence against the prospective accused except some bald allegations without any documentary or medical evidence to substantiate the same. The trial cannot be allowed to proceed merely on bald allegations without any substance to support or evidence to prove such allegations as the same is amount to abuse of process of the Court.

16. The role of the prospective accused and allegation levelled against them were duly investigated by Investigating Officer as well as senior officers and they found no involvement of them in alleged offences. Mere stating in evidence that the prospective accused had been indulged in commission of alleged offences is not sufficient to summon them under section 319 of Cr.P.C. As such, there had to be more than prima facie case against them which compelled the Court to summon them under Section 319 of Cr.P.C. No prima facie case is made out against the prospective accused. There is no role or direct evidence against them nor any material on record which connect them with alleged offence is established or proved. Hence the present application is dismissed.”

8. Taking into consideration the observations made by the Constitution Bench of the Hon’ble Apex Court in the case of **Hardeep Singh Vs. State of Punjab & others, (2014) 3 SCC 92**, that the evidence is not of the standard which may warrant conviction of the petitioner. Therefore, finding no substance in the present petition and no error in the impugned order dated 06.11.2023 whereby the application under Section 319 Cr.P.C. has been dismissed, the present petition stands dismissed.

July 23, 2025

Sailesh

**(SANJAY VASHISTH)
JUDGE**

Whether speaking/reasoned :

Yes/No

Whether Reportable :

Yes/No