

HEMLATA
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1. The present application has been filed under Section 5 of the Limitation Act praying for condonation of delay of 911 days in filing the present revision petition.

2. For the reasons mentioned in the application, the delay of 911 days in filing the present revision petition is condoned.

3. Application stands disposed of.

Main cases:-

1. This order shall dispose of the aforementioned three petitions, whereby the petitioners have challenged the common impugned order dated 24.08.2018 passed by the Court of Additional Sessions Judge, Sangrur, whereby the petitioners have been ordered to be summoned to face trial for the offences punishable under Sections 307, 365, 341, 323, 324, 506, 427, 148, 149 of IPC, while exercising the powers under Section 319 Cr.P.C.

2. Learned Senior counsel appearing on behalf of the petitioners submits that respondent No.2/complainant, namely, Harpreet Singh @ Happy had got the present FIR registered in the present case, by alleging that the petitioners alongwith their co-accused had inflicted injuries on the respondent No.2/complainant and Gurkirtan Singh. As per the allegations, Bhagwan Kaur and Amarjit Kaur (both petitioners in CRR-3086-2018) were armed with soties (stick) and they alongwith Manjeet Kaur had caught hold the respondent No.2/complainant from the hair and gave fist blows on the chest. Similarly, it was alleged against Dharam Singh and Harjit Singh (petitioners in CRR-3293-2018) that a fight had taken place, on which Ranjit Singh and Harpreet Singh had quarreled with each other and had given blows to each other. Still further, it



was alleged that Kamandeep Kaur and Nirmal Singh (petitioners in CRR-2711-2022) had also participated in the commission of the crime and were present at the place of occurrence. Learned Senior counsel further submits that from a bare perusal of the MLR of respondent No.2/ complainant, it was apparent that he had received six injuries, out of which, two injuries had been caused with sharp edged weapon on the right forearm of respondent No.2/complainant, which were attributed to co-accused Ranjit Singh and Dharam Singh. Similarly, injury No.3 was attributed to Yadwinder Singh. Still further, on the directions of Senior Police Officers, a SIT was constituted, which had recommended the presentation of cancellation report and presentation of Calandra under Section 182 of Cr.P.C. against respondent No.2. It was found that there was no injury, which was suffered by the injured on their vital organs. Apart from that, all injuries were simple in nature and so many persons were roped in, just to victimize them. Learned Senior counsel further submits that during the course of trial, the prosecution had moved an application under Section 190 Cr.P.C., wherein the trial Court had recorded a finding that there was nothing on record, which would justify to take cognizance against the petitioners in a criminal trial. Now, on the basis of the statement made by the complainant, they have been wrongly summoned by the trial Court. It was also argued that the trial against Ranjit Singh and Kulwant Singh had continued before the trial Court and Ranjit Singh and Kulwant Singh have been convicted by the trial Court and have been admitted to probation.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned Senior counsel for the petitioners on the



ground that specific role had been assigned to all the petitioners from the very beginning and the impugned summoning order is liable to be upheld by this Court.

4. I have heard learned counsel for the parties and perused the record carefully.

5 In fact, the Hon'ble Supreme Court has held in the matter of **"Hardeep Singh versus State of Punjab and others", 2014(3), SCC 92** that the power under Section 319 Cr.P.C. is a discretionary power and it has to be exercised sparingly and only in those cases, where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the Court that such power should be exercised and not in a casual and cavalier manner. Even the test has to be applied is one, which is more than *prime 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. It requires much stronger evidence than mere probability of his complicity.

6. In the present case, admittedly Harpreet Singh had suffered six injuries and all injuries were simple in nature. For causing these injuries, the prosecution had ordered the prosecution of Ranjit Singh and Kulwant Singh, co accused/non-applicants and now they have been convicted by the trial Court for causing simple injuries to the injured in the present case. Moreover, even though, the petitioners were named in the FIR as well as the statement of the



complainant in the witness box, still there was no other evidence to connect them with the commission of crime. Even to most of the petitioners, no other role has been assigned. Apart from that, even the prosecution had moved an application under Section 190 of Cr.P.C. for taking cognizance against the petitioners as additional accused in the present case. However, the said prayer was already declined and the impugned order is legally unsustainable. Still further, even the petitioner have been summoned on the basis of the statement made by Harpreet Singh only and there was no other fresh evidence on record, warranting the summoning of the petitioners in the present case. Still further, the prosecution had also failed to show that more than *prima facie* case was existed against the petitioners and there was sufficient ground to try them along with the accused, who were already facing the trial.

7 As a consequence, the present revision petitions are allowed and the common impugned order dated 24.08.2018 passed by the Court of Additional Sessions Judge, Sangrur, whereby the petitioners have been ordered to be summoned to face trial for the offences punishable under Sections 307, 365, 341, 323, 324, 506, 427, 148, 149 of IPC, while exercising the powers under Section 319 Cr.P.C. are ordered to be set aside qua the present petitioners only.

8. Pending applications, if any, stand also disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

09.04.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No