(2013) 09 P&H CK 0459

High Court Of Punjab And Haryana At Chandigarh

Case No: CRR No. 2873 of 2013

Kehar Singh		APPELLANT
	Vs	
State of Punjab		RESPONDENT

Date of Decision: Sept. 16, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 173, 319

Citation: (2013) 09 P&H CK 0459

Hon'ble Judges: Naresh Kumar Sanghi, J

Bench: Single Bench

Advocate: Kamal Narula, for the Appellant;

Final Decision: Dismissed

Judgement

Naresh Kumar Sanghi, J.

Challenge in this Criminal Revision Petition is to the order dated 20.08.2013 passed by learned Additional Sessions Judge, Ferozepur whereby the application u/s 319, Cr.P.C. moved by the petitioner-complainant, was dismissed. Brief facts of the case are that Gurnam Singh (deceased) had lodged a report with the police on the premise that on 19.06.2011 at about 12.00 P.M., he along with his uncle, Kehar Singh, was going towards the field and when they reached near the field of Manohar Singh, they noticed that electricity wire for running electricity motor was laid by him (Manohar Singh). When they asked Manohar Singh as to why he had placed the open electricity wire in the way, Manohar Singh started abusing them and there was a scuffle between them. The persons working in the fields rescued Gurnam Singh and Kehar Singh and sent them to go their houses. Manohar Singh and Tara Singh went to the village by their motorcycle. When they were about 1 km away to their village, then Gurnam Singh told his uncle, Kehar Singh, that Manohar Singh armed with a 12 bore double barrel gun; his son Tara Singh armed with a dang; Ladoo Singh armed with a dang; and Rano, Lahora Singh, Gurmeet Singh and Prem Singh all empty handed, were coming towards their side. Rano and Lahora Singh exhorted and in the meantime, Gurmeet Singh and Prem Singh sons of

Kishore Singh came forward and asked the complainant side to stop and Manohar Singh fired with his 12 bore double barrel gun with intention to kill Gurnam Singh which hit him on his backside. Tara Singh and Ladoo Singh gave injuries on the person of Gurnam Singh by means of lathis while Manohar Singh inflicted a blow from his 12 bore gun on the right side of the waist. These three persons had also caused injuries to Kehar Singh. On raising a noise, Magga Singh son of Jagga Singh and other persons of the village also gathered on the spot and, thereafter, the accused ran away from the spot with their respective weapons. Chiman Singh son of Ajit Singh got admitted the injured in the hospital. Gurnam Singh succumbed to his injuries on 20.06.2011.

2. After thorough investigation, the charge-sheet (report u/s 173, Cr.P.C.) was presented for prosecution of Manohar Singh, Tara Singh and Rano Bai while Lahora Singh, Ladoo Singh, Gurmeet Singh and Prem Singh were placed in column No. 2.

3. After commitment of the case to the court of Session, charges were framed and, thereafter, Kehar Singh appeared as PW1 and, thereafter, an application u/s 319, Cr.P.C. was presented by the petitioner Kehar Singh for summoning of Lahora Singh, Ladoo Singh, Gurmit Singh and Prem Singh as additional accused to face trial along with the three persons already put to trial.

4. Learned trial court vide order dated 20.08.2013 dismissed the application and hence, the present Criminal Revision Petition.

5. Learned counsel contends that the role assigned to Rano and Lahora Singh is the same and, therefore, there was no reason for the investigating agency to declare Lahora Singh as innocent. Similarly, Tara Singh and Ladoo Singh were also assigned the same role and as such Ladoo Singh was wrongly declared as innocent by the investigating agency. He further submitted that Gurmeet Singh and Prem Singh had exhorted and on their behest, the other accused had caused injuries to Gurnam Singh and Kehar Singh, therefore, they should have been put to trial by the investigating agency.

6. I have heard learned counsel for the petitioner and with his able assistance gone through the material available on record.

7. It is the conceded position that during investigation Lahora Singh, Ladoo Singh, Gurmit Singh and Prem Singh were found innocent. After framing of charges against Manohar Singh, Tara Singh and Rano Bai, the petitioner appeared as PW1 and, thereafter, application u/s 319, Cr.P.C. was presented for summoning of Lahora Singh etc as additional accused. It is specific case of the prosecution that only three injuries were found on the person of Gurnam Singh (since deceased). It is also the conceded position that Gurnam Singh died due to firearm injury alleged to have been caused by Manohar Singh and the other injuries were allegedly caused by Tara Singh and Ladoo Singh but those were found to be simple in nature.

8. The learned trial court, after scanning the material available on record, has specifically held that there was no material on the record to prima facie connect Lahora Singh, Ladoo Singh, Gurmeet Singh and Prem Singh with the alleged offence, therefore, the application u/s 319, Cr.P.C. was dismissed. The ocular version of petitioner is not corroborated by the medical evidence.

9. It is the settled proposition that to summon a person to face trial in a criminal case is serious a matter. It jeopardizes the liberty of a person. A person can be ordered to face trial in terms of Section 319, Cr.P.C. only, when Court prima facie finds that from the material on record, there are chances of ultimate conviction of the person, proposed to be summoned.

10. Therefore, at this stage, no ground for summoning of the additional accused is made out. Dismissed.