

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

**S.B. CRIMINAL MISC. PETITION NO. 3943/2015**

Rakesh Kumar Naruka S/o Shri Hari Singh Naruka, B/c Rajput, R/o  
Prithvipura, Police Station Malakheda, District Alwar (Raj.)

**-----Petitioner**

**Versus**

1. State of Rajasthan Through PP
2. Asu Arora W/o Sanjay Arora, R/o 1/553, Kala Kuwan Housing Board, Alwar (Raj.)
3. Devendra Sharma S/o Gopal Shah Sharma, R/o House No. 4/86, Kala Kuwan Housing Board, Alwar (Raj.)

**-----Respondents**

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**For Petitioner** : Mr. Nawal Singh Sikarwar

**For Respondents** : Mr. R.R. Gurjar, P.P.

**For Complainant** : Mr. Aatish Jain

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**HON'BLE MRS. JUSTICE SABINA**

**Order**

**31/08/2017**

Petitioner has filed this petition under Section 482 Code of Criminal Procedure 1973 (hereinafter referred to as 'Cr.P.C.') challenging the order dated 29.1.2015.

Learned counsel for the petitioner has submitted that the petitioner is aggrieved by the impugned order whereby, application moved by the petitioner under Section 319 Cr.P.C. for summoning Asu Arora as additional accused, was dismissed. Learned counsel has submitted that in-fact, it was the case of the petitioner that the vehicle-in-question was being driven by a lady driver. However, during investigation, respondent no.3 was arrayed as an accused. During trial, petitioner moved an application for summoning respondent no.2 as additional accused. Trial court has erred in dismissing the said application on erroneous considerations.

Learned counsel for respondent no.2 on the other hand, has opposed the petition and has submitted that after thorough investigation of the case, challan was presented against respondent no.3. Respondent no.2 has no concern with the offence in question.

A perusal of the impugned order reveals that the trial court was influenced with the fact that statement of Deepak Arora, attorney holder of the vehicle-in-question was recorded under Section 133 of the Motor Vehicles Act, 1988 and he had stated that on the day of occurrence, vehicle was driven by respondent no.3. Learned counsel for the petitioner has pointed out that in-fact, as per information given by the attorney holder under Section 133 of the Motor Vehicles Act, 1988, the vehicle-in-question was being driven on 21.6.2013, whereas, the accident had taken place on 21.6.2013. It was specific case of the complainant that the vehicle-in-question at the time of accident was being driven by a lady driver. Respondent no.2 is the wife of the registered owner of the vehicle-in-question.

In the facts and circumstances of the present case, trial court fell in error in dismissing the application moved by the complainant under Section 319 Cr.P.C. Complainant has no ill will against respondent no.2 but is claiming justice on account of injuries suffered by his mother in the road side accident. It is the case of the complainant that he had also witnessed the accident.

Accordingly, impugned order dated 29.1.2015, whereby, application moved by the petitioner under Section 319 Cr.P.C. was dismissed, is set aside. Consequently, application moved by the petitioner under Section 319 Cr.P.C. is allowed. However, nothing said above will have any bearing on the merits of the case.

Petition stands disposed of accordingly.

**(SABINA)J.**