

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10892 of 2014 (O&M)
Date of Decision:27.03.2015

Mangat Ram and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Ms. Loveleen Dhaliwal, Advocate for
Mr. K.S. Dhaliwal, Advocate for the petitioners.

Mr. B.S. Bhullar, AAG, Punjab for respondent No.1.

Mr. Narinder S. Lucky, Advocate for respondent No.2.

NAVITA SINGH, J.

1. Reply filed by respondent No.2 is taken on record.
2. As per order passed by Judicial Magistrate 1st Class, Jalandhar on 4.3.2013, the application moved by the prosecution through complainant i.e. respondent No.2 herein, for summoning the petitioners as an additional accused under Section 319 of the Code of Criminal Procedure (Cr.P.C. for short), was dismissed.
3. State filed a revision petition through complainant Nirmal Kaur and the court of revision i.e. Additional Sessions Judge, Jalandhar heard and allowed the revision petition, setting aside the order passed by the trial Magistrate.
4. Counsel for the petitioners relied on Mohit alias Sonu and another Vs. State of UP and another 2013 (3) RCR (Criminal) 673, wherein the Supreme Court had held that if the trial Court refused to issue summons on an application filed by the complainant under Section 319 Cr.P.C., it was not an interlocutory order, as such order passed by the trial Court decides

the rights and liabilities of the persons sought to be summoned as accused. It was further held that notice and opportunity of hearing was required to be given to the person in whose favour some right had accrued by virtue of order passed by the trial Court refusing to summon him or her under Section 319 Cr.P.C. The matter was remanded for being decided afresh after giving an opportunity of hearing to the person concerned.

5. The said judgment of the Supreme Court is applicable here as the facts are identical.

6. The petition is, therefore, allowed and the order passed by the court of revision on 10.2.2014 is set aside. The matter is remanded to the said court for deciding it afresh in accordance with law after hearing the petitioners. Parties to appear before the said court on 10.4.2015.

(NAVITA SINGH)
JUDGE

27.03.2015
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