

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

**CRM-M-17181 of 2015
Date of Decision: 25.5.2015**

Malkiat Singh

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Vineet Chaudhary, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks quashing of the impugned order dated 25.7.2014 (Annexure P-9), whereby the petitioner was summoned as additional accused by allowing the application under Section 319 Cr.P.C. and also order dated 3.4.2015 (Annexure P-11) passed by the learned Additional Sessions Judge, SAS Nagar, Mohali, thereby upholding the abovesaid order dated 25.7.2014 and dismissing the revision filed by the petitioner.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. There was hardly any evidence available on record against the petitioner, which may be said to be sufficient for summoning him as an additional accused under Section 319 Cr.P.C. He concluded by submitting that since both the learned court below have misdirected themselves while passing the impugned judgments, the same were not sustainable in law. He prays for setting aside the impugned judgments, by allowing the present petition.

Having heard the learned counsel for the petitioner, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that learned courts below have rightly passed the impugned orders and the same deserve to be upheld. To say so, reasons are more than one, which are being recorded hereinafter.

A combined reading of the impugned orders would show that petitioner has been specifically named in the FIR. In fact, the petitioner was found to be the ultimate beneficiary in the transaction in question. Prices of the land in the concerned area were not at the rate, at which the petitioner had purchased it. This further shows the tacit connivance of the petitioner with his co-accused namely Bhagwant Singh. Thus, the petitioner has been rightly found the ultimate beneficiary by both the learned courts below, because of which the impugned orders deserve to be upheld. Mere pendency of the civil litigation between the parties would not be a sole ground for absolving the petitioner from his criminal liability.

Once the sufficient incriminating material has been brought on record against the petitioner, learned trial court committed no error of law, while summoning the petitioner as an additional accused to face the criminal trial. Similarly, the learned Additional Sessions Judge, has rightly said that he was exercising a limited jurisdiction of revision and finding no patent illegality in the judgment passed by the learned trial court, the same was rightly upheld.

While passing the impugned judgment, learned Additional Sessions Judge has rightly observed in para 8 of the impugned judgment that more than a prima facie case has been found against the petitioner which was sufficient to summon the petitioner as additional accused, by allowing the present application under Section 319 Cr.P.C. Having said that, this Court feels no hesitation to conclude that learned courts below have proceeded on a factually correct and legally justified approach, while passing the impugned judgments and the same deserve to be upheld.

During the course of arguments, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality in the impugned judgments passed by the learned courts below, so as to convince this Court to take a different view than the one taken by the learned trial court and was affirmed by the learned revisional court. Under these circumstances, it can be safely concluded that either of the impugned orders has not been found to be suffering from patent illegality or perversity and the same deserve to be upheld.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, instant petition stands dismissed, however with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

25.5.2015
Ak Sharma