

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CRM-M-24765-2013 (O&M)

Decided on : 13.08.2015

*Avtar Singh @ Tari**... Petitioner**Versus**State of Punjab and another**... Respondents*

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr.JPS Sarao, Advocate
for the petitioner.
Mr.Sultan Singh Gill, DAG, Punjab.
Mr.S.K.Singla, Advocate for respondent No.2.

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

Hari Pal Verma, J. (Oral)

Prayer in this petition is for quashing of order dated 1.6.2013 passed by learned *Additional Sessions Judge, Patiala* whereby a revision petition filed by the complainant, namely Sukhwant Singh (respondent No.2) against the order dated 4.1.2013 passed by *Judicial Magistrate 1st Class, Nabha* declining the summoning of petitioner, *Avtar Singh @ Tari* under *Section 319, Cr.P.C. as an accused*, has been set aside.

Learned counsel for the petitioner submits that the order dated 1.6.2013 passed by learned Additional Sessions Judge, Patiala in which the petitioner has been summoned in a case FIR No.70 dated 22.06.2009, under Section 326, 324, 323,

506, 148 and 149, IPC registered at Police Station Bhadson (Seciton 326 IPC added lateron) without issuing of any notice.

Learned counsel for the petitioner further submits that order of summoning without any notice to the petitioner runs contrary to the law settled by the Hon'ble Apex Court in the case of **Manharibhai Muljibhai Kakadia and another** vs **Shaileshbhai Mohanbhai Patel and others**, 2012 (4) RCR (Criminal) 689 and **Mohit alias Sonu and another vs State of U.P and another** passed in **Criminal Appeal No.814 of 2013**, **decided on 01.07.2013** as well as the judgment of Jharkhand High Court in case **Satish Chandra Dey vs State of Jharkhand and another 2008(2) CCR 318**.

Mr.S.K.Singla, Advocate appearing on behalf of respondent No.2 does not dispute the aforesaid proposition of law and very fairly states that in the light of the aforesaid judgments, the petitioner is required to be given a notice by the revisionary court before the order of summoning is passed.

Considering the fact that the petitioner who has been summoned as an accused by the revisionary court vide order dated 1.6.2013 without issuing any summon and the fact that the case of the petitioner is covered by **Mohit alias Sonu's** case (supra), the order dated 1.6.2013 passed by learned Additional Sessions Judge, Patiala does not survive before the scrutiny of law and therefore, is liable to be set aside.

Accordingly order dated 1.6.2013 is set aside and the

case is remanded back to the learned Sessions Judge, Patiala who shall pass a fresh order after issuing notice to the petitioner in accordance with law. It is made clear that learned Sessions Judge either may deal with the case himself or may entrust the case to some other court of competent jurisdiction.

The parties are at liberty to move an appropriate application for stay of the proceedings before the revisionary court and the revisionary court shall look into it, in accordance with law.

The parties through their counsel are directed to appear before the revisionary court on 24.09.2015.

Petition is disposed of.

[Hari Pal Verma]
Judge

13.08.2015
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