

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-31333-2014

Date of decision : 09.01.2015

Surjan Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: None for the petitioners.

Mr. Ankur Jain, AAG, Punjab.

REKHA MITTAL, J.(ORAL)

The present petition has been filed for quashing order dated 11.12.2013 (Annexure P2) passed by the Additional Sessions Judge, Ferozepur whereby the revision petition preferred by the State through respondent No.2/complainant was allowed and the order dated 11.12.2013 passed by the trial Court dismissing the application of the prosecution under Section 319 Cr.P.C. for summoning Surjan Singh and Banta Singh as additional accused has been set aside and the petitioners have been summoned to face trial.

The sole grievance of the petitioners is that the order passed by the trial Court rejecting claim of the prosecution for summoning the petitioners as additional accused has been set aside by the revisional Court without providing an opportunity of hearing to the petitioners in view of the judgment passed by Hon'ble the Supreme Court of India in *Manharibhai*

Muljibhai Kakadia and another Vs. Shaileshbhai Mohanbhai Patel and others, 2012(4) RCR(Crl.) 689.

Perusal of the impugned order makes it evident that no notice or opportunity of hearing was provided to the petitioner by the revisional Court before setting aside order dated 11.12.2013 passed by the Judicial Magistrate which has enured to their benefit.

In view of enunciation of law laid down in the aforesaid judgment, the impugned order cannot be allowed to sustain and accordingly set aside. The matter is remitted to the revisional Court for decision of the petition afresh after providing an opportunity of hearing to the petitioners.

Disposed of accordingly.

(REKHA MITTAL)
JUDGE

January 09, 2015.
Davinder Kumar