

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

CRM-M-40076-2012 (O&M)
Date of decision: 11.09.2015

Gurmeet Singh and anr.

... Petitioners

Vs.

State of Punjab and anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. J.S. Mehndiratta, Advocate
for the petitioners.

Ms. Anmol Grewal, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seek quashing of order dated 13.11.2009 (Annexure P-7) passed by the learned Chief Judicial Magistrate, Hoshiarpur summoning the petitioners as additional accused under Section 319 Cr.P.C. as well as the order dated 24.05.2012 (Annexure P-8) passed by the revisional Court, dismissing the revision petition filed by the petitioners.

Notice of motion was issued.

During the course of hearing, it has transpired that petitioner No.1 was not even named in the FIR. He is brother-in-law of main accused namely Narinder Singh. A bare combined reading of both the impugned orders passed by the learned Courts below would show that the law laid

down by the Hon'ble Supreme Court in **Hardeep Singh Vs. State of Punjab and others, 2014 (3) SCC 92**, has been altogether ignored, while summoning petitioner No.1 as an additional accused, to face the criminal trial.

When a pointed question was put to learned counsel for the respondents as to how, under these peculiar facts and circumstances of the case, noticed above, petitioner No.1 could have been summoned with the aid of Section 319 Cr.P.C., they had no answer and rightly so, it being a matter of record. Since the learned Courts below failed to keep in mind the settled principle of law for the purpose of summoning a person as an additional accused under Section 319 Cr.P.C., however, only qua petitioner No.1, the impugned orders cannot be sustained.

So far as petitioner No.2 is concerned, learned counsel for the petitioners, after arguing the case for some time, seeks permission of the Court to withdraw the present petition qua petitioner No.2 with liberty to her to raise all possible pleas before the learned trial Court, during the course of trial.

No other arguments 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 deserves to be partly allowed.

Consequently, the impugned order dated 13.11.2009 (Annexure P-7) passed by the learned Chief Judicial Magistrate, Hoshiarpur summoning the petitioner No.1 as additional accused under Section 319 Cr.P.C. as well as the order dated 24.05.2012 (Annexure P-8) passed by the revisional

Court, are hereby set aside, however, only qua petitioner No.1.

As prayed, present petition is dismissed as withdrawn qua petitioner No.2, with liberty, as prayed for.

Resultantly, with the abovesaid observations made, present petition stands disposed of, in view of the abovesaid terms.

[RAMESHWAR SINGH MALIK]
JUDGE

11.09.2015
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