

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

**Criminal Misc.No.M-39401 of 2015(O&M)
Date of Decision: November 26, 2015**

Raj Kumar Jangra

...Petitioner

Versus

State of Punjab & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.K.B.Raheja, Advocate,
for the petitioner.

Naresh Kumar Sanghi, J.(Oral)

CRM-38000-2015

After hearing learned counsel for the applicant and going through the contents of the application, which is duly supported by an affidavit, the same is allowed. The applicant is granted exemption from filing certified and true typed copies of Annexures.

CRM-M-39401-2015

Challenge in the present petition, filed under Section 482, Cr.P.C., is to the order dated 05.11.2015 (Annexure P-5) passed by learned Additional Sessions Judge, Sangrur, whereby the criminal revision petition No.46 dated 04.09.2015 filed by the petitioner challenging the order dated 20.07.2015 passed by learned Sub-Divisional Judicial Magistrate, Moonak, vide which

the petitioner was summoned under Section 319, Cr.P.C., to face trial for the offences punishable under Sections 120-B, 420, 467, 468 and 471, IPC, was dismissed.

Learned counsel contends that not even a single witness has appeared before learned trial Court to depose with regard to the commission of the offences for which the petitioner has been summoned and that during pendency of trial, the informant had sorted out his dispute and effected a compromise with the petitioner. In support of his contention, learned counsel has placed reliance on the matters of **Hardeep Singh vs. State of Punjab & Ors.**, 2014(3) SCC 92, **Michael Machado & Anr vs. Central Bureau of Investigating & Anr.** 2000 CrI.L.J.1706, **Chander & Anr. vs. State of Haryana**, 2015(3) RCR (Criminal) 764, **Khazana Ram vs. State of Haryana etc.**2004(4) RCR (Criminal) 902, **Guriya @ Tabassum Tauquir & Ors. vs. State of Bihar & Anr.**, 2007(4) RCR (Criminal) 497, **Smt.Rajjo & Anr. vs. State of Haryana & Anr.**,Criminal Revision No.444 of 2003 decided on 14.12.2005, **Ranbir Singh & Anr. vs. State of Haryana**, 1992(2) RCR (Criminal) 36, **Surjit Kaur & Ors. vs. State of Punjab & Anr.**,2006(1) RCR(Criminal) 565, **Attar Singh vs. State of Punjab**, 1986(2) R.C.R.(Criminal) 211 and **Parambir Singh Gill vs. Malkiat Kaur**, 2010(1) RCR (Criminal) 256.

I have heard learned counsel for the petitioner and with his able assistance gone through the material available on record.

As per the allegations set up by the prosecution, the petitioner, who was a notary public, had attested the forged affidavit alleged to have been executed by Mahinder Kaur in the year 2008. It was alleged that Mahinder Kaur had died in the year 2001 and when the said affidavit was attested by the petitioner at that time Mahinder Kaur was no more in-existence. The contention of the petitioner was that Mahinder Kaur had accompanied the Sarpanch of the village, he (petitioner) had no doubt regarding the identity of Mahinder Kaur and therefore, the affidavit was attested.

If the factual aspect would have been that Mahinder Kaur was identified by any person and on the basis of said identification, the petitioner being a notary public would have attested the affidavit then the position would have been different. The material available on record would clearly spell out that Mahinder Kaur was not identified by any person. The prosecution has been able to bring on record the material that Mahinder Kaur the alleged executant of the affidavit, had died in the year 2001 while the impugned affidavit was attested in the year 2008 which clearly show that the petitioner in conspiracy of

his co-accused had attested the fabricated affidavit purported to have been executed by Mahinder Kaur, therefore, learned trial Court had correctly opted to summon the petitioner for the offences punishable under Sections 120-B, 420, 467, 468 and 471, IPC, to face trial with his co-accused. The learned Court of Session while dismissing the revision petition, filed by the petitioner, has also accorded sound reasons and this Court has no ground to differ with the findings recorded by two Courts below. This Court finds that there was more than prima facie material to summon the petitioner to face trial.

So far as the ratio of the judgments cited by learned counsel for the petitioner is concerned, the latest and foremost important judgment would be of the larger Bench of Hon'ble the Supreme Court in the matter of Hardeep Singh's case (supra). The sum and substance of the said judgment is that if the Court finds that more than prima facie material is available on record then the Court would be within its jurisdiction to summon a person under Section 319, Cr.P.C. Since not only the Courts below but this Court has also come to the conclusion that there is more than prima facie case to summon the petitioner for the alleged offences to face trial, therefore, there is no good ground to interfere by this Court in the judgments passed by learned Courts below. So far as the argument of learned counsel for the petitioner is that the informant has

effected a compromise with the petitioner would have no substance at this stage. The petitioner would be at liberty to take benefit of the said compromise in accordance with law before the Courts below. This Court can only consider the fact that the affidavit on behalf of a dead person was forged and attested after seven years of her death, therefore, what would be benefit of the compromise executed by informant would be a moot point before learned Court below.

Dismissed.

November 26, 2015
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(Naresh Kumar Sanghi)
Judge