

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 1682 of 2015 (O&M)

Date of Decision: July 20, 2015

Karamjit Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. N.P.S. Mann, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

CRM No. 22141 of 2015

Crl. Misc. application is allowed subject to all just exceptions,
Annexures P/18 and P/19 are taken on record.

CRR No. 1682 of 2015

Instant revision petition has been filed by the petitioner against the impugned order dated 18.02.2015 passed by learned Special Judge, S.A.S. Nagar (Mohali), whereby application filed by the petitioner under Section 319 of the Code of Criminal Procedure for summoning respondent no.2 as an additional accused has been dismissed.

Brief facts of the case are that Avtar Singh— complainant has got registered an FIR No. 5 dated 18.12.2012, under Sections 409, 420, 467, 468, 471, 120-B of the Indian Penal Code and 13(1) I(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, at Police Station

Vigilance Bureau Flying Squad-1, S.A.S. Nagar, Mohali, against the petitioner and their co-accused. After the investigation, challan was submitted against the petitioners and other co-accused. Vide order dated 05.04.2014 (Annexure P/13), trial Court framed the charge against the petitioner and other accused. Thereafter, petitioner preferred an application under Section 319 Cr.P.C. for summoning respondent no.2 as an additional accused, which was dismissed by the learned Special Judge, SAS Nagar, Mohali vide impugned order dated 18.02.2015. Hence, this revision petition.

I have heard learned counsel for the petitioner and perused the record.

Vide impugned order dated 18.02.2015, learned Special Judge has observed as under:-

“Perusal of record reveals that respondent Mohinder Singh whose summoning has been sought by the applicant/accused as an additional accused had appeared in witness box as PW 19 deposed against the applicant/accused. He is the main prosecution witness, who has deposed that the applicant/accused. As per the allegations, applicant/accused Karamjit Singh forged signatures of Gurdev Singh Sidhu, the then Director on order of appointment of Amanpreet Kaur as Panchayat Secretary on compassionate ground. Besides statement of PW19 Mohinder Singh, during investigation specimen hand writing/signatures of applicant/accused Karamjit Singh were obtained, which were sent to the Forensic Science Laboratory and were compared with

questioned signatures of Gurdev Singh Sidhu on the appointment order in question. As per the report of the Forensic Science Laboratory on the forged appointment order signatures of Gurdev Singh Sidhu, the then Director have been written by applicant/accused Karamjit Singh. So, as per the evidence collected during the investigation which is being produced before the Court, applicant/accused Karamjit Singh had forged signatures of Gurdev Singh Sidhu, the then Director on appointment order of Amanpreet Kaur. According to the prosecution, the present application has been filed by the applicant-accused with malafide intention just to escape from his criminal liability, because PW19 Mohinder Singh is the material witness, who has deposed against the applicant/accused. Moreover, summoning of PW10 Mohinder Singh as additional accused under Section 319 of the Code of Criminal Procedure has been sought by the applicant/accused mainly on the basis of statement of PW19 Mohinder Singh in his cross examination and not on the basis of any other evidence. Learned Additional Public Prosecutor for the State further argued that there is not any sanction as required under Section 19 of the Prevention of Corruption Act, 1988 to launch prosecution against respondent Mohinder Singh and hence he cannot be summoned as additional accused under Section 319 of the Code of Criminal Procedure.

Therefore, after carefully considering the respective contentions of learned counsel for the applicant/accused as well as learned Additional Public Prosecutor for the State, I have reached at a considered opinion that there does not exist any ground for proceedings against PW19 Mohinder Singh

for having committed the offence in question and it appears that the present application has been filed by the applicant-accused with malafide intention just to escape from his criminal liability. Therefore, this application is dismissed.”

In this case, charge was framed on 05.04.2014. Thereafter, 32 witnesses have been examined. Otherwise also, no detailed order is required to be passed while recording of evidence. It is settled law that the Court is not required to examine the evidence minutely at the stage of framing of charge and even a suspicion is enough. The Court is required to see whether the allegations against the accused, prima facie appear to be true or not.

Hon'ble Supreme Court in **Onkar Nath Mishra and others vs. State (NCT of Delhi) and another, (2008) 2 SCC 561** has held that at the stage of framing of charge the Court is not expected to go deep into the probative value of the material on record. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

Hon'ble Supreme Court in **P. Vijayan vs. State of Kerala and another, 2010(1) RCR (Crl.) 826 (SC)** has also held that at the time of framing of charge the probative value of the material on record cannot be gone into and the material brought by the prosecution has to be accepted as true for that purpose.

Hence, in view of the aforementioned authoritative

pronouncements, learned trial court is only to see prima facie case at the time of framing of charge and if the Court thinks that the accused might have committed the offence, it can frame the charge and probative value of the material on the record is not required to be considered at this stage and that the material brought on the record by the prosecution has to be accepted as true at this stage.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

July 20, 2015
vkd

[Paramjeet Singh]
Judge