

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

CRR-189-2015 (O&M)
Date of decision : 02.11.2015

Sita Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. N.S. Shekhawat, Advocate for the petitioner.

Mr. Yashwinder Singh, DAG, Haryana,
assisted by DSP Tanya Singh.

Mr. S.N. Yadav, Advocate.
Mr. Tapan Yadav, Advocate.

JITENDRA CHAUHAN, J.

The present revision petition is directed against the order dated 02.12.2014, passed by the learned Additional Sessions Judge, Narnaul, whereby, the application filed by the complainant under Section 319 Cr.P.C., for summoning respondent Nos.2 and 3, as additional accused, has been dismissed.

The learned counsel for the petitioner contends that respondent Nos.2 and 3, who are sought to be summoned, are the main accused. The prosecutrix has levelled specific allegations against them

in her statement recorded under Section 164 Cr.P.C. (Annexure P-3) as well as during her deposition before the Court while appearing as PW7.

On the other hand, the learned counsel for respondent Nos.2 and 3 submits that during the investigation, no incriminating evidence could be collected against them. Although, the warrants were issued by the learned trial Court against them, but on the application moved by the State, the warrants issued were subsequently cancelled.

I have heard learned counsel for the parties and perused the case file.

The learned trial Court, while dismissing the application under Section 319 Cr.P.C. observed that since the police investigation against Naresh and Sunil is still pending, the application under Section 319 Cr.P.C. was not maintainable at that stage. Now, there is a change in the circumstances as investigation qua them stands completed and they have been found innocent by the investigating agency. The warrants of arrest issued against them have already been cancelled.

In view of the above, the present petition is allowed and impugned order dated 02.12.2014, is hereby set aside. However, in case, a fresh application under Section 319 Cr.P.C. is moved by the complainant, within two weeks from the date of receipt of a certified copy of this order, the competent Court shall pass a fresh order on the application so filed, in the light of the law laid down in ***Lok Ram Vs.***

Nihal Singh, 2006(2) R.C.R. (Criminal) 707; Samaj Parivartan

Samudaya Vs. State of Karnataka, 2012(3) R.C.R. (Criminal) 788;
Suman Vs. State of Rajasthan, 2009(4) R.C.R. (Criminal) 908; and
Joginder Singh Vs. State of Punjab, 1979 AIR (SC) 339, after
affording full opportunity of hearing to the parties.

The present petition is allowed.

02.11.2015
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(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter ? Yes/No