

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-340-2014
Date of decision: 18.09.2015

Ramesh

... Petitioner

Vs.

State of Haryana and ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. V.P. Singh, Advocate
for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

Mr. Rahul Jaswal, Advocate for
Mr. V.K. Thakur, Advocate
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Feeling aggrieved against the impugned order dated 31.10.2013, passed by learned Additional Sessions Judge, Bhiwani, whereby application under Section 319 of the Code of Criminal Procedure ('Cr.P.C.' for short), moved by the petitioner-complainant, for summoning respondents No.2 to 14, as additional accused to face the criminal trial, arising out of FIR No.152 dated 24.10.2012 under Sections 148, 323, 325 read with Section 149 of the Indian Penal Code ('IPC' for short), registered at Police Station Bound Kalan,

District Bhiwani was dismissed, he has approached this Court, by way of instant criminal revision petition, for setting aside the impugned order.

Notice of motion was issued.

Learned counsel for the petitioner submits that learned trial Court proceeded on a misconceived approach, while passing the impugned order. There was sufficient material available on the record for summoning the private respondents No.2 to 14, as additional accused to face the criminal trial. However, since the learned Court below has failed to appreciate true facts of the case as well as the relevant principles of law, while passing the impugned order, same is liable to be set aside. He places reliance on the order dated 04.04.2014 passed by this Court in **CRR No.3826 of 2013 (Sukhender Vs. State of Haryana and others)**, wherein identical order passed by the learned trial Court in this very case, was set aside. He prays for setting aside the impugned order, by allowing the present petition.

On the other hand, learned counsel for the private respondents No.2 to 14 as well as the State, submit that the learned trial Court has rightly passed the impugned order, because there was not even a prima facie case found against the private respondents for summoning them, as additional accused to face the criminal trial. They pray for dismissal of the revision petition.

After hearing learned counsel for the parties at considerable length and careful perusal of the record of the case, this Court is of the considered opinion that present one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its revisional jurisdiction under Section 482 Cr.P.C., which itself is a limited one.

To say so, reasons are more than one, which are being recorded hereinafter.

A bare perusal of the impugned order passed by the learned Additional Sessions Judge would show that each and every relevant aspect of the matter was discussed in detail, before arriving at a judicious conclusion. Petitioner could not make out even a prima facie case, much less more than prima facie, which is the requirement of law for summoning a person as additional accused, with the aid of Section 319 Cr.P.C., for facing the criminal trial. Having said that, this Court feels no hesitation to conclude that since the learned trial Court has not committed any error of law, while passing the impugned order, same deserves to be upheld.

So far as the order dated 04.04.2014 passed by this Court in CRR No.3826 of 2013 (Sukhender Vs. State of Haryana and others) and relied upon by learned counsel for the petitioner is concerned, a bare perusal of para 3 of the order would show that the said order was passed on the basis of concession given. In fact, said petition was not opposed by learned counsel for the respondents who appeared before this Court in the said petition. In this view of the matter, the order dated 04.04.2014 passed by this court in CRR No.3826 of 2013 has not been found of any help to the petitioner.

During the course of hearing, when a pointed question was put to learned counsel for the petitioner, as to how the impugned order was contrary to the law laid down by the Hon'ble Supreme Court in its Constitution Bench judgment in **Hardeep Singh Vs. State of Punjab and others, 2014 (3) SCC 92**, he had no answer and rightly so, it being a matter of record. The relevant observations made by the Hon'ble Supreme Court in para 99 of the judgment in **Hardeep Singh's** case (supra), which can be gainfully followed in the

present case, read as under: -

“Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if ‘it appears from the evidence that any person not being the accused has committed any offence’ is clear from the words “for which such person could be tried together with the accused.” The words used are not ‘for which such person could be convicted’. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.”

Learned counsel for the petitioner could not point out any jurisdictional error or patent illegality in the impugned order passed by the learned trial Court, so as to convince this Court to take a different view than the one taken by the learned Court below, thus, impugned order deserves to be upheld, for this reason also.

Once the petitioner failed to make out even a prima facie case against the private respondents No.2 to 14, the learned trial Court was well-justified on facts as well as in law, in passing the impugned order and the

same cannot be said to be illegal in any manner. In fact, the impugned order has not been found running contrary to the law laid down by the Hon'ble Supreme Court in **Hardeep Singh's** case (supra). Under these circumstances, it can be safely concluded that the learned Additional Sessions Judge has not exceeded his jurisdiction, while passing the impugned order and the same deserves to be upheld, for this reason as well.

No other argument 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 is misconceived, bereft of merit and without any substance, thus, it must. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

18.09.2015
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