

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CRR-3465-2015**

**Date of decision:15.9.2015**

Hans Raj @ Lala

...Petitioner

**Versus**

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

**Present:** Mr.Ramesh Chahal, Advocate for the petitioner.

**RAMESHWAR SINGH MALIK, J. (Oral)**

Feeling aggrieved against the impugned order dated 28.8.2015 passed by the learned Sessions Judge, Mewat, whereby application moved on behalf of the prosecution under Section 319 of the Code of Criminal Procedure ('Cr.P.C.' for short) was dismissed, petitioner has approached this Court by way of criminal revision petition, for quashing the impugned order.

Learned counsel for the petitioner submits that there was a prima facie case made out against respondents No. 2 to 4 which was sufficient for summoning them, as additional accused, to face the criminal trial. He further submits that since the learned trial Court failed to appreciate the sufficient material available on record against respondents-accused, the impugned order has resulted in serious miscarriage of justice and the same is liable to be set aside, by allowing the present petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar fact situation obtaining in the instant case, present one has not been found to be a fit case, warranting interference at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one. To say so, reasons are

more than one, which are being recorded hereinafter.

The basic fallacy, which has been found in the star argument raised by the learned counsel for the petitioner, is that the ratio of the judgment rendered by the Constitution Bench of the Hon'ble Supreme Court in **Hardeep Singh v. State of Punjab and others, 2014 (3) SCC 92** has been misunderstood. Prima facie case, as required for the purpose of framing of the charge, used to be the law earlier. This was the reason that to resolve the controversy, the matter was referred to the Constitution Bench. Hon'ble Supreme Court in **Hardeep Singh's** case (supra) has held that now it is not only the prima facie case which is the requirement of law for summoning a person as an additional accused, to face criminal trial under Section 319 Cr.P.C. Now, the requirement of law is more than a prima facie case.

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 unrebutted, 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.”*

During the course of hearing, learned counsel for the petitioner, despite his best efforts having been made, could not make out more than a

prima facie case against respondents No. 2 to 4, which is the requirement of law, as it stands today, as per the ratio of the judgment of the Hon'ble Supreme Court in **Hardeep Singh's** case (supra). Once there was not more than a prima facie case made out against respondents No. 2 to 4, the learned Sessions Judge, Mewat has committed no error of law, while passing the impugned order and the same deserves to be upheld.

Further, the 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 as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noticed above, coupled with the reasons aforementioned, this Court is of the considered view that the instant criminal revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present criminal revision petition stands dismissed, however, with no order as to costs.

**15.9.2015**  
**mks**

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**