

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 3765 of 2014

Date of Decision: 20.4.2015

Sarab Dayal Singh and Another

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner(s).

Mr. Jasanpreet Singh, Assistant Advocate
General, Punjab for respondent No.1.

Mr. Jagjit Singh, Advocate
for respondent No.2.

Darshan Singh, J.

1. The present revision petition has been filed against the order dated 20.8.2014 vide which the petitioners have been ordered to be summoned as additional accused.

2. Learned counsel for the petitioners has pleaded that the petitioners have been ordered to be summoned as additional accused by the Additional Sessions Judge, Kapurthala, though the application under Section 319 Cr.P.C. was dismissed by the trial Court, without affording any opportunity of being heard to the petitioners, which was mandatory. To support his contentions, he has relied upon a judgment rendered by the Hon'ble Apex Court in ***Mohit alias Sonu and Another v. State of U.P. And Another 2013(3) R.C.R.(Criminal) 673***. Learned counsel for the respondents could not dispute the aforesaid legal

position.

3. I have perused the impugned order dated 20.8.2014 passed by the Additional Sessions Judge, Kapurthala. Only Nirvial Singh, the original accused was impleaded as respondent before the Additional Sessions Judge. The application under Section 319 Cr.P.C. was filed by the complainant for summoning the petitioners as additional accused. The said application was dismissed by the trial Court vide order dated 31.8.2013. The complainant preferred the revision against that order impleading only Nirvial Singh, the original accused. The said revision petition has been allowed by the Additional Sessions Judge, Kapurthala directing the trial Court to summon the petitioners as additional accused.

4. Admittedly, the impugned order has been passed by the Additional Sessions Judge without affording any opportunity of being heard to the petitioners. In view of the law laid down in ***Mohit alias Sonu's case*** (*supra*), the impugned order cannot be sustained in the eyes of law.

5. In view of above, the present petition is hereby allowed. The impugned order dated 20.8.2014 is hereby set aside and the matter is remitted to the Additional Sessions Judge, Kapurthala to decide the revision petition afresh after affording an opportunity of being heard to the present petitioners.

(Darshan Singh)
Judge

April 20, 2015
"DK"