

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR No.3917 of 2015(O&M)

Date of Decision:-19.11.2015

Randeep Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. D.S. Gurna, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

The petitioner Randeep Singh has filed Crl. Revision Petition to challenge the order dated 8.9.2015, whereby the trial Court proceeded to frame the charges against the petitioner for the offence punishable under Sections 302/34 IPC in case FIR No.93 of 2014, P.S. Majitha, Amritsar.

After registration of the case, the investigation was carried out and in the final report submitted under Section 173 Cr.PC co-accused Lavjeet Singh was sent up to face trial and the remaining accused including the petitioner were found innocent. After the commencement of the trial, witness PW-1 namely, Gurbeer Singh (complainant) testified before the Court and on that basis an application under Section 319 Cr.PC was moved to summon other accused including the petitioner. The application was allowed vide order dated 12.02.2015 and petitioner was arrayed as additional accused. The said order, dated 12.02.2015, was challenged by

the petitioner through Crl. Revision Petition no.2766 of 2015, however, the same was withdrawn on 18.08.2015 on the ground that the petitioner shall be taking up all the pleas during the trial before the trial Court.

The trial Court after summoning the accused (petitioner) under Section 319 Cr.PC framed the charges vide impugned order dated 08.09.2015. The petitioner has assailed that on the ground that there is no material for framing of the charges and is entitled to discharge.

Counsel for the petitioner heard at length.

The only issue that arises before this Court is to examine as to whether the accused/petitioner summoned under Section 313 Cr.PC can raise the plea of discharge in terms of Section 227 Cr.PC?

Chapter XVIII of the Cr.PC deals with the commencement of the trial after the final report is submitted by the police under Section 173 Cr.PC. The procedure is available to those accused persons who have been sent up to face trial by the police. The framing of charges is nothing but a formal cognizance by the trial Court to intimate the accused regarding the charges faced by him pertaining to the offences allegedly committed. On the contrary the provision of Section 319 Cr.PC are invoked beyond that stage, i.e. after the commencement of trial and the prosecution has adduced some evidence. It is on the strength of the evidence before the Court, the power under Section 319 Cr.PC is exercised to summon an accused additionally who is found to be involved in the crime. Once this power has been exercised by the Court and the additional accused has been summoned, this itself is sufficient to intimate the additional accused that there is evidence reflecting his involvement in commission of crime for which he needs to face trial.

After appearing before the Court, the framing of charges is a formal exercise in order to ask the additional accused whether he pleads guilty to the offence charged or claims to be tried. The purpose of framing of the charges, in respect of additional accused is confined to offer alone, because the order of summoning the additional accused itself contains the examination of material evidence and further conveyed to the additional accused the offence for which the summoning order was passed.

Therefore, once there is enough evidence, much strong than presumption or suspicion as required at the stage of framing of charges, the additional accused cannot claim the benefit of Section 227 Cr.PC, as the police had not sent him as an accused to face trial before the trial Court. The cited judgment **Jogendra Yadav & Ors. Vs. State of Bihar & Anr. 2015(9) SCC 244** does not support the contention raised on behalf of the petitioner rather clearly lays down that a person who has been summoned as an additional accused to face trial on an application under Section 319 Cr.PC cannot avail benefit of discharge under Section 227 Cr.PC as they both in essence are applicable under different situation.

For the reasons recorded above, this Court is not inclined to interfere with the impugned order of framing of charges.

Dismissed.

(JASWANT SINGH)
JUDGE

November 19, 2015
Vinay