

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

**CRR No. 4849 of 2015 (O&M)
Date of Decision: 22.12.2015**

Bijender and others

.....Petitioners

Vs.

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. J.S. Hooda, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

CRM-41803 of 2015

Applicant seeks permission to place on record legible true photocopy of Annexure P-3 as well as Annexures P-4 to P-7.

Application is allowed, as prayed for.

CRM stands disposed of.

CRR No. 4849 of 2015

Feeling aggrieved against the impugned order dated 19.11.2015 passed by the learned Additional Sessions Judge, Gurgaon, whereby petitioners were ordered to be summoned as additional accused to face criminal trial, while allowing the application under Section 319 of the Code of Criminal Procedure ('Cr.P.C.' for short), petitioners have approached this Court by way of instant criminal revision petition.

Learned counsel for the petitioners submits that learned trial court has completely misread the law laid down by the Hon'ble Supreme Court in its latest Constitution Bench judgment in the case of Hardeep Singh Vs. State of Punjab and others, 2014 (1) RCR (criminal) 623. He refers to the copy of the challan presented by the investigating agency to contend that sufficient reasons were assigned by the investigating agency, while declaring the petitioners innocent. However, since the learned trial court has misdirected itself, while passing the impugned summoning order, the same has resulted in a serious miscarriage of justice. He prays for setting aside the impugned order, by allowing the present petition.

Having heard the learned counsel for the petitioner, 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 instant 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.

A bare perusal of the impugned order passed by the learned trial court would show that more than a prima facie was found to be made out against the petitioners for summoning them as additional accused to face criminal trial. This is what the requirement of law is to exercise the powers under Section 319 Cr.P.C. The learned trial court was fully justified in referring to the Constitution Bench judgment of the Hon'ble Supreme Court on the subject in

Hardeep Singh's case (supra), while passing the impugned order.

Having said that, this Court feels no hesitation to conclude that learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld.

Another strong reason which has been assigned by the learned trial court while passing the impugned order was that the investigating agency did not assign any reason in its report under Section 173 (2) Cr.P.C., while exonerating the petitioners. This was the reason that learned counsel for the petitioner sought and was granted time on 17.12.2015 for placing on record complete copy of police report under Section 173 (2) Cr.P.C., which he has placed on record by way of abovesaid miscellaneous application.

The relevant part of the challan at page 20 of the abovesaid miscellaneous application would show that the investigating agency has failed to assign any reason whatsoever, while declaring the petitioners as innocent. In this view of the matter, it is unhesitatingly held that learned trial court was fully justified in observing that the investigating agency has given no reason while exonerating the petitioners. Under these circumstances, it can be safely concluded that the impugned order does not suffer from any patent illegality and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner also failed to point out any jurisdictional error or patent illegality apparent on record of the case 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 trial court. The law laid down by the Hon'ble Supreme Court in Hardeep Singh's case (supra), has rightly been followed by the learned trial court, therefore, the 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 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 fail. No case for interference has been made out.

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

(RAMESHWAR SINGH MALIK)
JUDGE

22.12.2015
Ak Sharma