

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

**CRR No.559 of 2015  
Date of Decision : 09.12.2015**

Surjeet Singh

.....Petitioner

Versus

State of Haryana

..... Respondent

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

- |   |                                                                      |     |
|---|----------------------------------------------------------------------|-----|
| 1 | Whether reporters of local newspaper may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not?                                  | Yes |
| 3 | Whether the judgment should be reported in the digest?               | Yes |

Present: Mr. Manoj Kaushik, Advocate  
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana.

**FATEH DEEP SINGH, J.**

Surjeet Singh, present revisionist was tried in a case got registered by way of FIR No.98, dated 12<sup>th</sup> April, 2006 under Sections 279, 304-A and 337 IPC at Police Station Mulana and vide Judgment dated 4<sup>th</sup> June, 2013 was found guilty and was sentenced to various imprisonments with the maximum to undergo rigorous imprisonment for a period of one year with fine under Sections 279, 304-A and 337 IPC.

Against these findings of the learned trial Court, the petitioner filed an appeal before the learned Additional Sessions Judge, Ambala and vide impugned Judgment dated 18<sup>th</sup> November, 2014, the learned First Appellate Court holding that the case needs to be remanded back and, thus, had directed the trial Court to record the statement of the accused under Section 313 Cr.P.C. afresh observing that the Court has failed to put photographs Ex.P1 to Ex.P5 their negatives Ex.P6 to Ex.P10, Duty Roster Ex.PW10/A, Police request Ex.PW8/A and site-plan Ex.PW6/C during recording of the statement under Section 313 Cr.P.C. It is precisely against this very finding that the accused has come up before this Court in this revision.

Heard Mr.Manoj Kaushik, Advocate for the petitioner and Mr. Munish Sharma, Asstt. Advocate General, Haryana for the respondent-State and perused the records of the case.

The very purpose of enacting provisions under Section 313 Cr.P.C., is with a view to enable the accused to explain anything adverse against him in the prosecution evidence. It further casts a duty upon the Court to put questions to the accused on that material evidence led before it and to seek explanation/stand of the accused on that evidence and which is to be done without examining the accused on Oath and if the accused, takes any defence *qua* them, the same ought to be taken into consideration in holding his guilt or otherwise. The

contentions of petitioner's counsel that such a remiss renders it to be a mistrial is highly erroneous and untenable. Every such act or omission does not vitiate the trial and it rather is the error, its effect and extent of prejudice caused to the accused. The only object of such a provision is to meet the requirement of the principle of natural justice by way of "*audi alteram partem*". Though, there are different purposes of the examination of the accused under Section 313 Cr.P.C., under Section 313 (1)(a) Cr.P.C. relates to any stage of such inquiry or trial and under Section 313(1)(b) Cr.P.C., it takes place after the prosecution witnesses are examined and before the accused is called upon to enter his defence. Thus, the requirement of Section 313 (1)(b) Cr.P.C., is mandatory which would serve the purpose that every material piece of evidence, which the prosecution proposes to use against the accused, needs to be put to him in clear terms and secondly, the accused should be given a fair chance to give his explanation in relation to that very accusation and which is purely for the just administration of justice. It is admitted stand of the two sides that these documents have been relied upon in the report under Section 173 Cr.P.C. copies of which were supplied to the accused under Section 207 Cr.P.C. and were part of the legitimately and legally proved evidence by way of photographs Ex.P1 to Ex.P5, their negatives Ex.P6 to Ex.P10, Duty Roster Ex.PW10/A, Police request Ex.PW8/A and site-plan Ex.PW6/C

and, thus, the pure inadvertent error that has crept up while recording the statement under Section 313 Cr.P.C. of the accused is on account of fault of the Court and not of the prosecution and, thus, the prosecution cannot be put to disadvantage for such an act of the Court. Moreso, since all these documents are vital pieces of evidence relied by the prosecution at the very inception of the trial and the accused was fully aware of the same and his defence is not prejudiced by any means or any material prejudice is being caused to the accused and, thus, to the mind of this Court, failure to put the accused such material evidence in his statement under Section 313 Cr.P.C. is only a mistake of the Court and does not go to the root of the trial making it to be a mistrial.

Though, on behalf of the revisionist, reliance has been placed on ***“Sujit Biswas Vs. State of Assam, 2013(3) R.C.R. (Criminal) 227”*** and ***“Radhey Shyam Vs. State of Rajasthan, 2014(5) SCC 389”***, to hammer home the point that such a serious lacuna cannot be condoned. This Court on the other hand is supported by another view of the Hon’ble Apex Court in ***“Tara Singh Vs. State, 1951 AIR (SC) 441”***, where it has been laid down way back in the year 1951 by the Hon’ble Apex Court that the whole object of this provision is to offer the accused a fair and appropriate opportunity of explaining circumstances which appear against him. Since the accused is fully aware of what

charges he is facing pertaining to this accidental death and, thus, can adequately appreciate and understand the very factum of the charges and the stand of the prosecution and the material on which they are based. At the most it suggests that there is only an immaterial error/omission which has crept in due to fault of the Court and does not in any manner causes material prejudice to the accused or has taken him by surprise so as to vitiate the trial. Similarly, in “***Labhchand Dhanpat Singh Jain Vs. State of Maharashtra, 1975 AIR (SC) 182***”, similar proposition of law was laid and there is no question of the revisionist, having suffered injustice for this reason and another subsequent view in “***Paramjeet Singh @ Pamma Vs. State of Uttarakhand, 2011 AIR (SC) 200***”, where reliance has been placed on another view in the case of “***Suresh Chandra Bahri Vs. State of Bihar, 1994(3) R.C.R. (Criminal) 1***” and “***State of Gujarat Vs. Anirudhsing, 1997(4) R.C.R. (Criminal) 513***” are to the same effect.

The counsel for the revisionist could not impress upon this Court what material prejudice has been caused to the accused or by what means the impugned findings of the First Appellate Court are contrary to the position of law. The cited ratios in *Sujit Biswa's case* and *Radhey Shyam's case (ibid)* are factually at much variance from the case before this Court.

Thus, in view of the foregoing contentions, neither any

noticeable illegality much less any perversity legally acceptable could be propounded by the counsel for the petitioner and thus, finding no merits in the instant revision, the same stands dismissed.

**December 09, 2015**  
**Dpr**

**(FATEH DEEP SINGH)**  
**JUDGE**