

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-1929 of 2016(O&M)
Date of Decision: January 21, 2016

Balbir Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagdeep Bains, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 02.11.2015 passed by learned Addl. Sessions Judge, Ferozepur and order dated 05.12.2014 passed by learned Judicial Magistrate Ist Class, Ferozepur, vide which the petitioner has been summoned under Section 319 Cr.P.C. and learned Revisional Court has upheld the same order. It is also stated that the summoning orders are wholly illegal and against the facts on record, as vide enquiry reports dated 19.11.2012 conducted by Superintendent of Police (H), Ferozepur and 28.11.2014 conducted by Deputy Superintendent of Police (Inv.), Ferozepur, the petitioner stands exonerated in case FIR No.69 dated 16.06.2012 under Section 420 and 120-B IPC registered at Police Station Ghal Khurd, District Ferozepur.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the application under Sections 190 and 319 Cr.P.C. was moved by accused Iqbal Singh for summoning Balbir Singh, Salesman Markfed, Talwandi Bhai and Jaswant Singh, partner of M/s K.K.Rice and General Mills, Talwandi Bhai, as accused to face trial. It is stated in the application that after enquiry by Economic Offences Wing of Police, present case was registered against Jaswant Singh and Amarjit Mehta, partners of firm M/s K.K.Rice and General Mills, Balbir Singh, Salesman and Iqbal Singh, Salesman Markfed working as Branch Incharge. After investigation, the challan against Amarjit Mehta and Iqbal Singh was presented in the Court. It is also stated that Iqbal Singh was suffering from cancer and he remained on medical commuted leave and earned leave from 17.02.2011 to 24.08.2011 and in the absence of Iqbal Singh, the supervisory charge as Incharge Branch Talwandi Bhai was given to Balbir Singh, Salesman and this fact has also been admitted in cross-examination by Ravi Kumar AW-1. It is further stated that during investigation, Balbir Singh and Jaswant Singh could not be arrested and it was mentioned that proceedings of declaring them as PO will be initiated and challan against them will be put in Court but after expiry of two years of presenting the challan, no action against Balbir Singh and Jaswant has been taken by the police.

After hearing the counsel for the parties, learned JMIC, Ferozepur, vide order dated 05.12.2014, accepted the application and

summoned accused Balbir Singh and Jaswant Singh. Learned Magistrate held that present case was registered against Jaswant Singh, Amarjit Singh, Balbir Singh and Iqbal Singh. Jaswant Singh and Balbir Singh were also named as accused in the letter of DM Markfed addressed to SSP, Ferozepur as well as in the enquiry conducted by E.O. Wing and in the FIR along with other accused. Learned Magistrate also held that in the report under Section 173 Cr.P.C., it has been specifically mentioned by the prosecution that proceedings of declaring Balbir Singh and Jaswant Singh as PO will be initiated and thereafter, challan against them will be put in Court but no such proceedings are initiated by the prosecution. Further, the status report was called from the police station wherein it is stated that enquiry was held and both Balbir Singh and Jaswant Singh were declared innocent. The Court held in the order that sufficient evidence against Balbir Singh and Jaswant Singh has come on the file in the shape of evidence of PW1 to PW3, who have specifically mentioned the names of Balbir Singh and Jaswant Singh along with other accused and the Court held that there are sufficient grounds to proceed against them under Section 319 Cr.P.C. to face trial.

The perusal of the order passed by learned JMIC, Ferozepur shows that no illegality has been committed by the Court while summoning the present petitioner. The order passed by learned JMIC, Ferozepur is as per law, which has been upheld by learned Addl. Sessions Judge, Ferozepur, vide order dated 02.11.2015 while dismissing the revision. No illegality has been committed by the

Courts below. The above-said accused i.e. Balbir Singh is named in the FIR. He is also named in the letter written by DM Markfed to SSP, Ferozepur. In the enquiry by Economic Offences Wing, the present petitioner has also been found guilty. Even at the time of presenting the challan against other co-accused, it has been mentioned that Balbir Singh present petitioner along with other co-accused could not be arrested and PO proceedings will be initiated and challan will be presented against him.

As per the impugned order, three PWs have been examined and the Court held that sufficient evidence has come on record against present petitioner to proceed against him.

Under Section 319 Cr.P.C., additional accused can be summoned if it appears to the Court that he is involved in the commission of offence and he should be tried along with other accused already facing the trial.

In view of the above discussion, the impugned orders passed by both the Courts below, in no way, can be held as illegal or amount to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

January 21, 2016
Vgulati

(INDERJIT SINGH)
JUDGE