

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-19292 of 2016 (O&M)

Date of decision:- July 26, 2016

Karnail Singh and another

...Petitioners...

versus

State of Punjab and another

...Respondents...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Atul Jain, Advocate,
for the petitioners.

JASPAL SINGH, J.

CRM-21988-2016

Copy of plaint (Annexure P-7) is taken on record, subject to all
just exceptions.

CRM stands disposed of.

Main case

By virtue of this petition preferred under Section 482 Cr.P.C.,
the petitioner has sought quashing/setting aside of order dated 21.07.2015
(Annexure P-4) passed by Sub Divisional Judicial Magistrate, Sultanpur
Lodhi vide which the application under Section 319 Cr.P.C. to summon
Bhawna wife of Ashok Kumar and Beerta daughter of Ashok kumar to
stand trial along with their co-accused, has been dismissed as well as the
order dated 30.11.2015 passed by Id. Sessions Judge, Kapurthala (Annexure

P-6) whereby the revision petition has been dismissed affirming the order dated 21.07.2015.

2. While assailing the impugned orders, it has been argued with vehemence by learned counsel for the petitioners that the same are absolutely against the evidence available on file and settled canons of law. Mis-appreciation of legal proposition as well as the evidence has resulted into miscarriage of justice. In fact, Ms. Bhawna and Ms. Beerta wife and daughter of Ashok Kumar respectively were present at the time and place of occurrence and also participated in it but they have been wrongly declared innocent by the investigating agency at the time of submission of report under Section 173(2) Cr.P.C. Even there is a specific deposition made by the complainants before the trial court with regard to their participation in the occurrence but despite that fact an application moved by the prosecution under Section 319 Cr.P.C. has been dismissed. No reason has been assigned for the dismissal of the application. Similarly, the evidence as well as legal proposition applicable to the facts and circumstances of the case has been ignored by the Id. revisional court, which otherwise, did not appreciate the evidence available on file in its proper perspective. As such, the impugned orders are not sustainable in the eyes of law and are liable to be set aside.

3. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioners and has scrutinized the impugned orders but does not find any factual and legal substance. It appears that Ms. Bhawna and Ms. Beerta are being roped in the instant case by the complainants just being the wife and daughter of the main accused- Ashok Kumar. There is no additional evidence brought on record by the

prosecution with regard to their role in the course of alleged occurrence. Moreover, if there is any agreement with regard to the decoration of M/s Saefi Farm, it was in between Ashok Kumar and the complainants. The said agreement does not bear the signature of either Ms. Bhawna or Ms. Beerta. Moreover, there is no specific role attributed to them even as per the contents of the FIR. Moreover, the petitioners-complainants have already filed a suit for recovery of Rs.32,92,715/- along with interest against accused-Ashok Kumar, in which, his wife and daughter have not been impleaded as party. So, in such circumstances, this Court is of the considered view that impugned orders passed by both the courts below are absolutely legal and do not call for any interference by this Court.

4. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, the same is dismissed.

July 26, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether reportable: ***Yes/ No***