IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27888-2015
Date of decision: August 17, 2016.

Charanjit Kaur @ Sharanjeet Kaur and others

... **Petitioners**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Ghulam Nabi Malik, Advocate for the petitioner.

Shri K.S. Sidhu, Assistant Advocate General, Punjab.

Shri Amandeep Singh, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Heard learned Counsel for the rival parties.

What is challenged in the present petition are the orders dated 3.6.2015 passed by Chief Judicial Magistrate, SAS Nagar and dated 24.7.2015 passed by learned Additional Sessions Judge, SAS Nagar by which order summoning Charanjit Kaur, Gurinder Singh and Sahib Singh in exercise of powers under Section 319 Cr.P.C. was made and confirmed by the revisional court.

With the assistance of learned Counsel for the rival parties, I have gone through the deposition of Sohan Singh PW1 complainant carefully. Relevant portion of his deposition reads thus:-

"*Stated that in the year 2008 I was working with Sahib*

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Singh in RCM busines and through Sahib Singh I met with accused Kulwinder Singh Cheema for the purpose of sending my brother Ranjit Singh Virk abroad i.e. Canada. Accused Kulwinder Singh told me that he will send my brother abroad i.e. Canada and for this I will have to pay Rs.10.00 lacs. However our deal was finalized for Rs.9.00 lacs. On 01.06.2008 accused Kulwinder Singh called me at Franko Hotel Phase I, Mohali and there I gave Rs.4.00 lacs to him in the presence of his wife Charanjit Kaur and his son Gurinder Singh. ..."

Above part of the evidence does not even remotely suggest that the Charanjit Kaur and her two sons namely, Gurinder Singh and Sahib Singh have committed any offence which allays the raising of possibility of their conviction. The learned trial court however stated that they were the part of the conspiracy. As a matter of fact, there is no deposition to that effect. Be that as it may, in the absence of plausible and concrete evidence, power under Section 319 Cr.P.C. cannot be exercised as held by the Constitution Bench of the Supreme Court. The order is therefore not in consonance with the Apex Court judgment. In that view of the matter, I make the following order:-

ORDER

(i) Rule is made absolute in terms of the prayer clause.

(ii) Consequently, the impugned orders are quashed and set

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aside;

(iii) Trial against Kulwinder Singh be expedited.

[**A.B. Chaudhari**]
August 17, 2016. **Judge**
kadyan

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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