

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-28327 of 2014 (O&M)
Date of decision: March 17, 2016

Jagdev Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Subhashish Kukreti, Advocate for
Mr. Deepak Verma, Advocate for the petitioner.
Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J. (oral)

Present petition is directed against the order passed by Judicial Magistrate 1st Class, Gurdaspur, whereby petitioner has been summoned to face trial as an additional accused in exercise of powers under section 319 Cr.P.C. Only ground on which the petitioner has impugned the order, is that he is in the Army and that on the date of occurrence he was posted at Rajauri (J&K).

Aforesaid fact is not controverted by the State counsel. Affidavit of Dr. Akhil Choudhary, Assistant Superintendent of Police, Dinanagar is on record. He has referred to the said affidavit in this regard, relevant part whereof reads as under:-

“During the investigation, as per the information/Annexure P-2 given by the Commanding Officer, the petitioner who has been named in the FIR, was present in the Unit on 27.12.2008. Therefore, the petitioner was found to be innocent in the above said case. Hence the challan has been submitted in the competent court against the other accused and the petitioner was kept in column No.2. The charge has been framed by the competent court on 22.01.2011.”

In view of above, impugned order is hereby set-aside. The matter is remitted to the trial court for decision afresh after hearing the parties.

March 17, 2016
'Rajpal'

(RAJAN GUPTA)
JUDGE