

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-38647 of 2014 (O&M)
Date of decision: January 14, 2016

Harpal Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. GBS Dhillon, Advocate for the petitioner.
Dr. Sushil Gautam, DAG, Haryana.
Mr. Bijender Dhankar, Advocate for respondent No.4.

Rajan Gupta, J.

This is a petition under Section 482 Cr.P.C. seeking quashing of order dated 22.8.2014, passed by Chief Judicial Magistrate, Fatehabad and also order dated 18.10.2014, passed by Additional Sessions Judge, Fatehabad, whereby application moved under section 319 Cr.P.C. for summoning Rohi Ram as additional accused, has been dismissed.

Learned counsel for the petitioner submits that there are specific allegations against Rohi Ram that he alongwith other accused took money from the complainant, but during investigation he has been left in column No.2. Thereafter, complainant/petitioner supported his case while appearing as PW-1. Thus, the orders passed by the courts

below are liable to be quashed.

Learned State counsel as well as counsel appearing for respondent No.4 have opposed the plea. They submit that the trial court has rightly dismissed the application under section 319 Cr.P.C. as allegations against respondent No.4 were found to be false, therefore, there was no prima facie case to summon Rohi Ram as additional accused.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, FIR was lodged on statement of the complainant/petitioner under sections 420, 467, 468 and 471 read with section 120B IPC with the allegations of fraud, conspiracy and giving threat to kill. It is alleged that accused Labh Singh, who was priest in the village of the complainant, allured complainant that he would get him appointed as an officer in Food & Supply Department of the Central Government having large number of perks, for which he demanded Rs.16.00 lacs. Said amount was paid by the complainant to accused Labh Singh in some installments. At that time payment was made, accused Labh Singh was accompanied by Rohi Ram and Happy. After taking money, accused Labh Singh took complainant to Balwant Singh. All accused assured the complainant that talks with the Minister were in progress. Six months lapsed but complainant did not get a job. On the year 2009, these four accused called the complainant at Tohana, District Fatehabad, where he found dressed officials. They took him to a Chilly factory at Tohana and conducted a fake raid and demanded rupees ten thousands from owner of

the factory. They took Rs.4000/- from the owner and disappeared from there. The complainant suspected some foul play and demanded his money back from the accused. On 7.9.2009, accused Labh Singh assured in writing that money would be returned, but did not pay a single penny. Complainant waited in the first week of January, 2011. However, he again demanded his money back, but accused flatly refused. They threatened that in case he raised any demand of money, they would kill him. On these allegations, FIR was lodged.

I find force in the contentions raised by learned counsel for the petitioner. The courts below have not correctly appreciated the facts as well as evidence on the file. There is sufficient material on record to summon Rohi Ram as an additional accused. Testimony of Harpal Singh (petitioner herein) is relevant for the purpose of decision of application under section 319 Cr.P.C. The complainant has specifically stated that at the time money was paid by him to accused Labh Singh, Rohi Ram was also accompanying them. His name also appeared in confessional statement of the co-accused. Ratio of the judgment in *Hardeep Singh Vs. State of Punjab, 2014 (1) R.C.R. (Criminal) 623* has not been correctly appreciated by the courts below. Stand of the complainant is that while parting with money he believed the accused because of presence of Rohi Ram who was a government servant. It is inexplicable why trial court has rejected the application for summoning Rohi Ram as an additional accused. The petitioner while deposing in court, reiterated the allegations against accused Rohi Ram. It appears that he had actively participated in the crime. Under the circumstances, this revision petition is allowed.

Impugned orders are hereby set-aside. Rohi Ram be summoned as additional accused to face the trial.

(RAJAN GUPTA)
JUDGE

January 14, 2016
'Rajpal'