

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-7598 of 2016 (O&M)
Date of Decision: March 03, 2016

Lokesh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumit Sangwan, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the order dated 05.01.2016 passed by learned trial Court dismissing the application under Section 319 Cr.P.C. for summoning of respondent No.3 as an additional accused in case FIR No.235 dated 07.07.2010 under Sections 408, 420 and 120-B IPC registered at Police Station Tosham, District Bhiwani and the order dated 30.01.2016 passed by learned Addl. Sessions Judge, Bhiwani, whereby the revision filed by the petitioner was dismissed.

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

From the record, I find that in the present case, challan has been presented against Lokesh, Rakesh and Bhishan Dev Gupta by the police of Police Station Tosham in case FIR No.235 dated 07.07.2010. An application was filed by the accused in the present

case under Section 319 Cr.P.C. to summon Vinod Kumar as additional accused. As per the record, Rajender Jain has been examined in the Court as PW-1, on the basis of whose evidence, application under Section 319 Cr.P.C. has been filed. As per the order dated 05.01.2016 passed by Sub Divisional Judicial Magistrate, Tosham, PW-1 Rajender Jain filed the reply to the application being complainant by stating that after investigation, the police submitted the report and Vinod Kumar was found innocent. Merely mentioning the name of Vinod Kumar does not mean that he has committed the offence. Learned SDJM, Tosham, after appreciating the evidence, dismissed the application. A revision was filed before the Sessions Court and learned Addl. Sessions Judge, Bhiwani, dismissed the revision petition vide order 30.01.2016.

Aggrieved from the above-said orders, present petition has been filed.

From the record, I find that the order passed by learned SDJM, Tosham, is correct, as per evidence and law. In no way, it can be held that any illegality has been committed while passing the order dated 05.01.2016 vide which the application under Section 319 Cr.P.C. was dismissed. PW-1 Rajender Jain has appeared in the witness box and he has stated nothing in the chief-examination against Principal Vinod Kumar except that Principal Vinod Kumar was looking after the matters of the school. In cross-examination, PW-1 has simply stated that complaint made by him in Police Station Tosham was also against Principal Vinod Kumar that he is also

involved in the conspiracy. There is no more evidence on the record except this line in the cross-examination. There is no evidence on the record as to what was the conspiracy and how Vinod Kumar was involved in the commission of the offence. The allegations against the main accused, who have been challaned are that they have embezzled the amount of ₹9.30 lacs. There is no other evidence on the record to show that Principal Vinod Kumar has also embezzled any amount. Rather, PW-1 Rajender Jain, complainant has filed reply and has contested the application under Section 319 Cr.P.C. filed by the accused.

From the record, I find that there is no evidence on record from which it appears to the Court that the person sought to be summoned as additional accused, is also involved in the commission of the offence and should be tried together with the accused already facing the trial.

From the above discussion, I find that in no way the orders passed by the Courts below can be held as perverse or illegal. In no way, the impugned orders can be held as against the law or passing of these orders amount to miscarriage of justice. The impugned orders passed by the Courts below are correct, as per law and do not require any interference from this Court.

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

March 03, 2016
Vgulati

(INDERJIT SINGH)
JUDGE