

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRR-2700-2015 (O&M)  
Date of decision : 08.11.2016**

Uggarsain

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Hemant Bassi, Advocate for the petitioner.

Mr. Naveen Kaushik, Addl.A.G., Haryana,  
assisted by SI Kumbha Ram.

Mr. B.S. Bairagi, Advocate,  
for respondent Nos.2 and 3.

**JITENDRA CHAUHAN, J.**

The present revision petition on behalf of the complainant is directed against the order dated 27.04.2015, passed by the learned Additional Sessions Judge, Fatehabad, whereby, the application moved by the prosecution under Section 319 of the Code of Criminal Procedure has been partly accepted.

It is contended that learned Court below erred in allowing the application qua Prabhu Dayal only and dismissing the same qua Balraj and Ramesh, sons of Prabhu Dayal, inasmuch as all the above

witnesses were specifically named in the FIR as well as in the subsequent statement of the petitioner recorded in the Court as PW-1.

Heard.

The controversy regarding summoning under Section 319 Cr.P.C. has been settled by Hon'ble the Apex Court in '**(2014) 3 SCC 92, Hardeep Singh Vs. State of Punjab and others**'. Their Lordships have held as under:-

*“Though under [Section 319\(4\)\(b\)](#) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under [Section 319](#) Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.”*

In the instant case, though, there is prima facie evidence against all the accused sought to be summoned under Section 319

Cr.P.C., the evidence in the form of various complaints filed by the deceased before Lokayukata, Haryana against Prabhu Dayal, Sarpanch, relating to embezzlement, is sufficient to hold that there is more than prima facie evidence on this account, sufficient to summon him to face trial. However, the situation is different as regards accused, Balraj and Ramesh. Though, both of them are named in the FIR as well as in the statement of the complainant recorded under Section 164 Cr.P.C., but beyond that, there is no evidence to record a beyond prima facie satisfaction to summon them.

In view of the above, this Court is of the considered opinion that the application under Section 319 Cr.P.C. qua accused Balraj and Ramesh, has been rightly rejected.

Dismissed.

**08.11.2016**

*atulsethi*

**(JITENDRA CHAUHAN)  
JUDGE**

Whether speaking / reasoned :      Yes      No

Whether Reportable :      Yes      No