

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

CRR No. 2983 of 2014

Date of decision : 24.02.2016

Sanjeev Kumar

....Petitioner

V/s

The State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Angel Sharma, Advocate for the petitioner.

Mr. Shilesh Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner is aggrieved against order dated 03.06.2014 passed by Additional Sessions Judge, SAS Nagar (Mohali) whereby he has been summoned under section 319 Cr.P.C. to face trial for commission of offence under sections 120-B and 409 IPC and section 13(1)(d) read with section 13(2) of Prevention of Corruption Act read with section 120-B IPC.

Learned counsel for the petitioner submits that petitioner has been summoned as an additional accused to face trial on an application being moved by Ajay Bhandari, one of the prosecution witness, who has no locus standi to file such an application. According to him, trial court without appreciating the evidence on record has wrongly summoned the petitioner. He submits that petitioner retired from the partnership firm when the alleged agreement took place. Thus, impugned order deserves to be quashed.

Plea has been opposed by learned State counsel.

I have heard learned counsel for the parties.

Brief factual background of the case is that a case was registered by Vigilance Bureau on 11.01.2007 against Om Parkash Sharma (father of the petitioner) and Kuldeep Singh under sections 409, 120-B IPC and sections 13(i)(d) read with section 13(2) of the Prevention of Corruption Act. An agreement dated 19.10.2005 was executed between Punjab Agro Food Grain Corporation and M/s Jyoti Rice and General Mills signed by Om Parkash (partner of the Firm) for milling of Paddy for the period 2005-06. Sanjeev Kumar (petitioner herein) was also one of the partner in the said Firm. He had given Special Power of Attorney to his father Om Parkash to act on his behalf. An affidavit dated 19.10.2005 was also submitted by M/s Jyoti Rice and General Mills to the Corporation wherein one Ajay Bhandari (prosecution witness on whose application petitioner was summoned) was shown as a guarantor for all the supplies being made to Firm. After completion of investigation, final report under section 173 Cr.P.C. was presented against the accused before the competent court. During pendency of trial, said Ajay Bhandari, (prosecution witness) moved an application before the court below for summoning petitioner as an additional accused. He alleged that affidavit dated 19.10.2005 which was given along with agreement dated 19.10.2005 to Punjab Agro Food Grain Corporation by M/s Jyoti Rice and General Mills in which he was shown as a guarantor was never in his knowledge. He alleged that this was done by the partners of M/s Jyoti Rice and General Mills in connivance with Sham Sunder Bassi, District Manager of Punjab Agro Food Grain Corporation. He further alleged that during the course of investigation, he had submitted a written complaint dated

01.11.2007 wherein he categorically stated that he never furnished any affidavit dated 19.10.2005 to Punjab Agro Food Grain Corporation. Moreover, when his statement under section 161 Cr.P.C. was recorded on 07.11.2007, he had asserted that affidavit dated 19.10.2005 was not in his knowledge and he never signed the same. It was forged and fabricated document. On this application, trial court felt that petitioner needed to be summoned as additional accused to face trial for commission of offences under section 120-B and 409 IPC and section 13(1)(d) read with section 13(2) of Prevention of Corruption Act read with section 120-B IPC. Before the court below, a plea was taken by petitioner that he had retired from the partnership when the present dispute arose. Trial court, however, found that petitioner had retired from the partnership w.e.f. 15.02.2006 i.e. subsequent to the date of execution of agreement dated 19.10.2005. Therefore, he was equally responsible and thus liable to be prosecuted for the offence. I find no infirmity with the order. It is evident that trial court has summoned the petitioner on the basis of available evidence on record. It appears that order passed by the trial court is within the parameters laid down by the Hon'ble Supreme Court in judgment reported as as *Hardeep Singh vs. State of Punjab & ors.* 2014(1) RCR (Criminal) 623. Revision petition is, thus, without any merit and is hereby dismissed.

February 24, 2016

Ajay

(RAJAN GUPTA)
JUDGE