

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3449 of 2015

Date of decision : 19.07.2016

Amarjit Singh Dhami

...Petitioner

V/s

State of Punjab & ors.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Abhinav Pandhi, Advocate for
Mr IPS Kohli, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Present revision petition is directed against the order passed by trial court whereby petitioner has been summoned in exercise of power under section 319 Cr.P.C.

Order has been challenged on the ground that court below has not appreciated the controversy in correct perspective. Power under section 319 Cr.P.C. has not been exercised as per law.

Prayer has been opposed by State counsel.

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

It appears that Punjab Water Supply and Sewerage Board issued tender for purchase of A.C. pressure pipes of different size. Five firms resonded. Officers constituting the purchase committee negotiated with the representatives of the firms and agreed to give 3.5% discount.

However, they manipulated the record in such a manner as to favour Kalani

Industries and issued supply order on a holiday. This was despite the fact

that earnest money was not deposited by the firm as per demand. The firm delivered the pipes of the quality lower than that specified in the tender. Besides, Government of India decreased the excise duty by 5% after invitation of tender. However, benefit of lowering of excise duty did not go to the Board. In this manner, officials of the Board connived with each other and the petitioner and caused a loss of ₹50.00 lacs to the government. After completion of investigation, final report was submitted before the competent court. During pendency of proceedings, trial court decided to summon the petitioner as an additional accused. It found that purchase order was issued by accused Manmohan Singh Sikand on a holiday i.e. Saturday on the direction of Managing Director of the Board namely A.S. Dhami. Sikand asked the officials to remain present in the office on the asking of Dhami, the Managing Director. Trial court also found that there was allegation that pipes of lower quality was supplied by changing the stamp thereon from CL-10 to CL-15. During investigation, same were found to be sub standard. Besides, Board never got benefit of reduction in excise duty. There are other similar allegations such as purchase of 30 VT pumps sets on the ground that same were emergently required. Out of these only 17 were installed, rest were kept in store. Despite the fact that petitioner was exonerated by the investigating agency, the court on the basis of material on record decided to summon him as an additional accused. I find no infirmity with this order. Law is well settled on the point that the court is fully empowered to summon the accused to face trial either in exercise of power under section 193 Cr.P.C. at the initial stage or under section 319 Cr.P.C. after trial has made some headway. Parameters for exercise of this power are clearly laid down in judgment reported as *Hardeep Singh vs. State of*

order is well reasoned and falls within the parameters laid down by Hon'ble Supreme court in said judgment. In the instant case, the court found sufficient material on record for summoning additional accused in view of role attributed to them of causing huge loss to the State exchequer by acting in connivance with each other. There is a clear cut allegation that purchase order was passed on a holiday i.e. Saturday by the Executive Engineer on the direction of Managing Director Mr. Dhami. Under the circumstances, there is no ground to interfere in revisional jurisdiction of this court. Dismissed. Needless to observe that petitioner would be at liberty to raise all his pleas before the trial court at the appropriate stage.

July 19, 2016

Ajay

(RAJAN GUPTA)
JUDGE