

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-15130 of 2014

.....

Date of decision:1.2.2017

Kuldeep Singh

...Petitioner

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. K.S. Yadav, Advocate for the petitioner.

Mr. P.K. Aggarwal, Deputy Advocate General, Haryana for
the respondent-State.

Mr. N.S. Shekhawat, Advocate for respondents No.2 to 6.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the orders dated 16.11.2012 (Annexure-P.1) and 4.10.2013 (Annexure-P.2) passed by the learned trial Court and revisional Court vide which the application filed under Section 319 Cr.P.C by the petitioner has been dismissed by both the Courts below. It has further been prayed for issuing direction to summon respondent No.6-Khem Singh as an additional accused in case FIR No.137 dated 20.5.2009 in Police Station Dharuhera for the offences under Sections 148, 149, 323, 324 and 506 IPC.

Notice of motion has been issued in this case.

Mr. P.K. Aggarwal, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. N.S.

Shekhawat, learned Advocate has appeared for respondents No.2 to 6 and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

At the time of arguments, learned counsel for respondents No.2 to 6 and learned State counsel brought to the notice of this Court that the case against the main accused of the said FIR has already been decided by the Court in which the application filed under Section 319 Cr.P.C. for summoning additional accused was dismissed. As the main case has already been decided by the trial Court, therefore, the present petition has now become infructuous.

Learned counsel for the respondents placed reliance on the law laid down in the judgment of this Court Tarsem Singh v. State of Punjab and others, 2013 (3) R.C.R. (Criminal) 585, in which it has been held that the challan was put up by the Police after investigation. An application was filed by the complainant to summon two persons as additional accused to face trial, who were also involved in the commission of the offence. The application was dismissed by the trial Court. Revision was filed before the High Court against the order of dismissal. The trial had been concluded in the meantime and the accused was convicted. The application of the complainant to summon additional accused was dismissed. It has been held that no body can be summoned as co-accused under Section 319 Cr.P.C. after conclusion of main case.

On the same point learned counsel for the respondents placed

reliance on the law laid down in Harjinder Singh v. State of Haryana and others, 2013 (1) R.C.R. (Criminal) 1038, wherein also it has been held that the trial Judge has already concluded the trial, convicted and sentenced the main accused. Cause of action under Section 319 Cr.P.C. does not survive and the revision petition was dismissed.

Learned counsel for the respondents also relied upon the law laid down by this Court in Rakesh Kumar v. State of Haryana and others, 2013 (3) R.C.R. (Criminal) 913. I have gone through the law laid down in these judgments. The law laid down in these judgments fully applies to the facts of this case. As the cause of action now does not survive, therefore, the present petition having become infructuous is dismissed.

February 1, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No