

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

CRM No.M-4906 of 2016 (O&M)

Date of Decision: March 29, 2017

Arjun Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rahul Deswal, Advocate,
for the petitioner.

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

Mr.Pankaj Bali, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Rajesh Kumar for setting aside the judgment dated 23.10.2015 passed by learned Addl. Sessions Judge, Karnal, vide which the revision petition filed by respondent No.2 was allowed and the order dated 07.08.2015 passed by learned Judicial Magistrate Ist Class, Karnal, dismissing the application under Section 319 Cr.P.C., was set aside.

Notice of motion was issued. Learned State counsel and learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that in the FIR, though the present petitioner is named but no specific role has been attributed to him. There is nothing in the FIR showing any specific inducement to the complainant. There is also nothing to show specifically that any money is paid to the petitioner in cash or by depositing in the account. Only general allegations have been levelled against all the four accused. Rather, as per version in the FIR, the complainant went to the house of two other co-accused and the present petitioner along with another co-accused was present there. Even as per the FIR, the complainant has not gone to the house of present petitioner.

Furthermore, on the basis of this FIR, investigation has been conducted and the present petitioner has been found innocent by the police. Before the Court, again the complainant has made same statement. No new facts have come on the record. There is no cogent evidence to show active involvement of the present petitioner in the commission of the offence.

From the perusal of the evidence, I find that it does not appear to the Court that the present petitioner is also involved in the commission of the offence. The standard of proof for summoning additional accused is somewhat more than prima facie case.

Learned Addl. Sessions Judge, Karnal, while setting aside the well reasoned order passed by learned Magistrate, held that in fact application under Section 319 Cr.P.C. is to be dealt with strictly as per framing of charge but in the case in hand, learned trial Magistrate has passed such an order; whereby valuable right of complainant at an initial stage was frustrated.

As already discussed, for summoning additional accused, prima facie case is not be seen. Rather, the evidence should be more than prima

facie case.

In view of the above discussion, I find that the judgment dated 23.10.2015 passed by learned Addl. Sessions Judge, Karnal, setting aside the order dated 07.08.2015 passed by learned JMIC, Karnal, is not as per law and the same is set aside qua petitioner Arjun Singh.

Therefore, finding merit in the present petition the same is allowed. The application under Section 319 Cr.P.C. qua Arjun Singh stands dismissed.

March 29, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No