

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

**CRM No.M-6899 of 2016
Decided on: 06.11.2017**

Major Lal

....Petitioner

Versus

State of Punjab and others

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Amandeep S. Gill, Sr. DAG, Punjab.

Mr. Parminder Singh-I, Advocate
for respondents No.2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

Challenge in this petition is for quashing the order dated 01.05.2015 (Annexure P12) passed by the Additional Sessions Judge, Ludhiana in Criminal Revision No.35 of 2014 dated 02.04.2014 vide which the order dated 19.02.2014 passed by the trial Court summoning the respondents No.2 and 3 as an additional accused under Section 319 Cr.P.C. was set-aside.

Brief facts of the case are that the petitioner got a cross-version registered in FIR No.193 dated 22.08.2006 under Sections 323 and 325 IPC at Police Station Jodhewal and after completion of investigation, the police while submitting the report under Section 173 Cr.P.C. found the private respondents – Narinderpal Singh and Bikramjit Singh innocent on the basis of a police zimini No.13 dated 25.12.2006 and declared them innocent on the basis of the statement of witnesses that they were not present at the spot. Later on, the petitioner,

after his statement by way of examination-in-chief was recorded, moved an application under Section 319 Cr.P.C. and the said application was allowed vide order dated 26.04.2010. However, this order was set-aside by the Revisional Court vide order dated 12.05.2012 (Annexure P8) by issuing a direction to the trial Court to re-decide the matter when the witness was cross-examined. Thereafter, on completion of the cross-examination of the petitioner, the petitioner moved second application under Section 319 Cr.P.C. and the same was also allowed vide order dated 19.02.2014 (Annexure P9). The private respondents again challenged that order before the Revisional Court and vide impugned order dated 01.05.2015 (Annexure P12), the revision petition was allowed and the matter was again remanded back to the trial Court with a direction that on an earlier occasion, it was directed that the trial Court should have recorded some more evidence as desired by the Revisional Court earlier and then decide the application under Section 319 Cr.P.C. This petition has been filed challenging the order vide which the matter has been remanded again before the trial Court. In the meantime, the petitioner has filed CRM-M No.9725 of 2014 challenging the order dated 12.05.2012 (Annexure P8). During pendency of this petition, the trial Court has again passed the order dated 19.02.2014 and, therefore, said petition was rendered as infructuous vide order dated 06.10.2014.

Counsel for the petitioner, at the very outset, has submitted that even subsequent to passing of an order dated 01.05.2015 (Annexure P12) some more evidence has been recorded i.e. statement of the doctor who conducted the MLR as well as the statement of

Radiologist who have appeared as PW3 and PW4 before the trial Court and, therefore, the petitioner be permitted to raise all the pleas during the course of arguments while re-deciding application under Section 319 Cr.P.C., after the remand by the Lower Appellate Court vide impugned order dated 01.05.2015.

Accordingly, this revision petition is disposed of with a direction to the trial Court that as per the remand order, the trial Court will pass afresh order under Section 319 Cr.P.C. and while passing such an order, the trial Court shall also consider all the evidence including the medical evidence which has come on record till date.

However, it will be open for the petitioner to file a fresh application under Section 319 Cr.P.C. as well as for the private respondents to file a reply to the same. Since, the FIR/cross-version pertains to the year 2006, the trial Court is directed to pass afresh order under Section 319 Cr.P.C. within a period of 03 months from the date of receiving the certified copy of this order. On the oral request made by counsel for the parties, it is further directed that the version and the cross-version shall be decided together on the same date.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

06.11.2017
yakub

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