

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

CRR No.1921 OF 2015 (O&M)
DATE OF DECISION : 17TH MARCH, 2017

Sushil Kumar Kaushik

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Deepender Singh, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Ram Bilas Gupta, Advocate for the complainant.

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A. B. CHAUDHARI, J. (ORAL)

Rule.

Heard forthwith with consent of counsel for the rival parties.

What is impugned in the present petition is order dated 16.02.2015 passed by learned Additional Sessions Judge, Faridabad in exercise of power under Section 319 Cr.P.C.

I have carefully perused the deposition (Annexure P-3) made by PW-8 Begh Raj Nagar before the trial Court. Upon going through the entire evidence of this witness who is the star witness of the prosecution, who is victim as alleged by the prosecution, I find that there is absolutely no attribution to the present petitioner for any offence whatsoever. The lower Court has relied upon his evidence before the Court that was recorded to make an order under Section 319 Cr.P.C.

Upon perusal of the reasons given by the trial Court, I find that the trial Court has not assigned a single reason as to the role attributed to the petitioner specifically which is the *sine qua non* for issuing order under Section 319 Cr.P.C. laid down by the Constitution Bench of Apex Court in the case of ***Hardeep Singh versus State of Punjab and others, 2014(3) SCC 92***. It is thus seen that the allegations are against other accused persons and there is no allegation or evidence against the present petitioner. The law requires that in the evidence before the Court, strong evidence should appear before the trial Court for exercise of power under Section 319 Cr.P.C. That is why I have perused the entire evidence of PW-8 and I find nothing against the petitioner.

In that view of the matter, I find that the order passed by the trial Court will have to be set aside. Hence, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) The CRR No.1921 OF 2015 is allowed.
- (iii) The impugned order dated 16.02.2015 passed by the learned Additional Sessions Judge, Fariadabad, is quashed and set aside, qua the petitioner only.

17TH NOVEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No