

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

**Criminal Revision No.2139 of 2016 (O&M)
Date of Decision: 07.10.2017**

Gulab Singh & another

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. K.S. Chahal, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

Mr. Arunjeet Singh Kakkar, Advocate
for respondent no.2-complainant.

Mr. Avlok Singh Sandhu, Advocate
for the applicant in CRM-29562-2017.

HARI PAL VERMA, J. (Oral)

CRM-29562-2017:

Prayer in this application filed under Section 482 CrPC is for
impleading the applicant-Paramvir Singh, as respondent no.3.

The present application is dismissed for the reason that the
petitioners were ordered to be summoned, as additional accused, on the basis
of statement of Surinder Singh, who is the complainant in the present case.

Criminal Revision No.2139 of 2016 (O&M)

Petitioners – Gulab Singh and Major Singh have filed the
present revision petition against order dated 19.4.2016 passed by the learned

Additional Sessions Judge, Patiala, whereby the trial Court has been directed to pass an order for summoning of the petitioners, as additional accused.

Learned counsel for the petitioners has submitted that learned Judicial Magistrate Ist Class, Samana, vide order dated 29.02.2016, has dismissed the application moved by the prosecution under Section 319 CrPC for summoning the petitioners as additional accused. The aforesaid order dated 29.09.2016 was challenged by respondent no.2 before the revisionary Court and the revisionary Court, on the basis of statement of the complainant-respondent no.2, set aside the order dated 29.02.2016 and directed the trial Court to pass an order for summoning of the petitioners, as additional accused. Learned counsel has submitted that while passing the impugned order, the revisionary Court has not given any notice to the petitioners and co-accused Gurwinder Singh, who is stated to be abroad and therefore, has not challenged the impugned order dated 29.02.2016 along with the petitioners. In support of his contentions, learned counsel for the petitioners has relied upon judgment of this Court dated 17.7.2015 passed in **Nirmal Singh v. State of Haryana and another CRM-M-24590-2014.**

Mr. Arunjeet Singh Kakkar, Advocate has put in appearance on behalf of respondent no.2-complainant and filed his *vakalatnama* in Court which is taken on record.

Learned counsel for respondent no.2-complainant is fair enough to state that the revisionary Court has not issued any notice to the petitioners before directing the trial Court to summon them to face trial.

It being the conceded position that the revisionary Court has not issued any notice to the petitioners and has straightway directed the trial Court to pass an order for summoning of the petitioners, as additional

accused, this Court finds that the impugned order dated 19.04.2016 passed by the revisionary Court deserves to set aside.

At this stage, learned counsel for the petitioners has submitted that during the pendency of the present revision petition, the matter has been compromised between the petitioners and respondent no.2-complainant, on the basis of whose statement, the petitioners were ordered to be summoned.

It being so, the petitioners have their remedies available under law. However, considering the fact that the revisionary Court has not issued any notice to the petitioners before passing the impugned order, the present petition is allowed, the impugned order dated 19.04.2016 is set aside and the matter is remanded back to the revisionary Court to decide the revision petition afresh after giving appropriate notice to the petitioners in accordance with law.

October 07, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No