

**In the High Court of Punjab and Haryana
at Chandigarh**

-.-

CRR 2655 of 2016

Date of Decision:27.01.2017

Sandeep Kaur

---Petitioner

versus

State of Punjab

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. A S Khinda, Advocate
for the petitioner
Mr. Mikhail Kad, AAG, Punjab

-.-

Rekha Mittal, J. (Oral)

The present petition has been directed against order dated 07.12.2015 passed by the Additional Sessions Judge, Kapurthala whereby the petitioner along with others has been summoned as an additional accused under Section 319 of the Code of Criminal Procedure (in short, Cr.P.C.).

Counsel for the petitioner has submitted that the order passed by the Court below is non-speaking, cryptic and sans any reasoning much less adverting to the provisions of Section 319 Cr.P.C and scope of exercise of jurisdiction for summoning additional accused, laid down in various authorities particularly judgment of the Constitutional Bench of Hon'ble the Supreme Court of India *Hardeep Singh vs. State of Punjab, 2014 (1) R.C.R. (Criminal) 623*.

Counsel for the State is not in a position to justify summoning of the additional accused without the trial Court examining the case in

detail.

I have heard counsel for the parties and perused the paper book particularly the order impugned.

A casual reading of the impugned order would evident that contentions raised by counsel for the petitioner are meritorious and deserve to be accepted. The trial Court has passed the impugned order summoning four persons merely on the asking of the prosecution and the accused already facing trial. Such a course adopted by the trial Court is unknown to law and further shows that the officer concerned is not well conversant with the provisions of Section 319 Cr.P.C and settled position in law with regard to the circumstances under which jurisdiction under Section 319 Cr.P.C can be exercised by the Court for summoning additional accused to face trial with the accused already before the Court. In this view of the matter, the order impugned cannot be allowed to sustain and accordingly set aside.

For the foregoing reasons, the petition is allowed, the impugned order is set aside with regard to summoning of all the four accused and the matter is remitted to the trial Court for consideration of the application under Section 319 Cr.P.C. afresh, in accordance with law.

Before parting with this order, it is clarified that the persons sought to be summoned as additional accused shall not be entitled to an opportunity of hearing for decision of application under section 319 Cr.P.C.

(Rekha Mittal)
Judge

27.01.2017
mohan bimbra

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