

208-B

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

CRR No.4489 of 2016

Date of decision: August 29, 2017

Harpreet Singh alias Happy and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

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

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate for the petitioners.

Mrs. Tanisha Peshawaria, DAG Haryana.

Mr. Partap Singh, Advocate for respondent No.2.

A.B. CHAUDHARI, J (Oral)

Reply by way of affidavit of Raj kumar, HPS, Deputy
Superintendent of Police (HQ), Karnal filed by learned State counsel
today in Court, is taken on record.

Heard learned counsel for the rival parties.

By the present revision petition, the petitioners have put to
challenge to order dated 24.10.2016, in Sessions Case No.9 of 2016,
by which the petitioners have been summoned to face trial as
additional accused.

I quote the following portion from Para 6 of the impugned
order dated 24.10.2016 passed by learned Additional Sessions Judge,
Karnal:-

“.....But police did not take into account this important

fact that these persons were also involved in the murder of Sanjay. Police on the basis of so called telephonic details of both these persons exonerated them for the offences in question. The distance of location, shown in mobile of both Roshan and Harpreet, was within 10 Kms area, which could have been easily managed by them for escaping from their liability of grievous offences in question. Moreover, mentioning of Manoj Kumar as witness of inquest proceedings does not exonerate them from the offences in question because in general, police obtains signatures on blank papers from the persons, available on the spot, even at later stage and that is why statement, recorded under Section 175 Cr. P.C. of Manoj Kumar, cannot be relied upon.....”

Learned Senior counsel for the petitioners contended that looking to the above part of the order, one would have impression as to what is passing in the mind of the learned judge, namely, prejudice. Having regard to the above observations and the stage at which, the case is being heard, I think, the trial Court should not have used the words, viz. “so called telephonic details”, “location” could have been easily managed by them”, comments about witness Manoj Kumar or police taking signatures on blank papers. In appropriate case, where there is evidence on record in trial to the satisfaction of the trial judge, after undergoing the test of cross-examination, the judge would be justified in making such observations, but then that should be after a full dressed trial. I do not think it was justifiable for the learned trial Judge to make above observations, which definitely can give rise to the impression in the mind of a person about what is passing in the

mind of the judge writing the order. After all, fair play is the hallmark of the judicial proceedings, which should also be appear from the orders or the judgment. I think, in that view of the matter, it would be appropriate to ask the learned trial Judge to hear the learned counsel for the rival parties and thereafter, make a fresh order. The trial Court need not take this Court's observation above as criticism but an advice.

In that view of the matter, impugned order dated 24.10.2016, in Sessions Case No.9 of 2016, is quashed and set aside with a direction to the trial Court to hear rival parties and decide the application under Section 319 of Code of Criminal Procedure, 1973 afresh with proper reasons. The application in question shall be taken up for hearing within 15 days from today and shall be decide, thereafter, in the next 15 days. No further time will be granted.

Petition stands disposed of, accordingly.

(A.B. CHAUDHARI)
JUDGE

August 29, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No