

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

CRR No.4958 of 2016 (O&M)
Date of Decision: May 10, 2017

Ashwani Kumar

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.P.S.Virk, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Ashwani Kumar against respondents State of Punjab, Vijay Kumar and Sukhviri Singh, challenging the impugned order dated 14.09.2016 passed by learned Judicial Magistrate Ist Class, Amloh, vide which the application under Section 319 Cr.P.C. filed by the prosecution was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that challan was presented against Mangal Singh, Avtar Singh and Dilbagh Singh in case FIR No.46 dated 25.04.2013 under Sections 406, 420, 465, 467, 468, 471 and 120-B IPC.

During the pendency of the trial, an application under Section 319 Cr.P.C. was filed by the prosecution summoning Vijay Kumar and

Sukhviri Singh as additional accused. It is argued by learned APP before

learned Magistrate that Ashwani Kumar complainant in his statement has categorically stated that Vijay Kumar and Sukhvir Singh in criminal conspiracy with other accused, got executed agreement to sell dated 15.02.2012 from Mangal Singh in favour of Ashwani Kumar and took ₹50 lakhs fraudulently and with malafide intention and also fixed the date for registration of the sale deed as 03.06.2012. After this, accused cancelled the said agreement to sell and executed new agreement dated 14.08.2012 and date of execution of the sale deed was fixed was 17.09.2012 and all the witnesses including Vijay Kumar and Sukhvir Singh signed on the said agreement to sell but the accused did not come to execute the sale deed.

At the time of presentation of challan, names of Vijay Kumar and Sukhvir Singh were kept in column No.2. Learned Magistrate after going through the evidence on record and after hearing learned APP and learned counsel for the accused, dismissed the application vide impugned order dated 14.09.2016.

The perusal of the impugned order dated 14.09.2016 shows that order has been passed by the trial Court as per evidence and law and no illegality has been committed. Vijay Kumar and Sukhvir Singh, whom the prosecution wanted to summon as additional accused, are not the beneficiaries under the agreement. They are only attesting witnesses. The duty of the attesting witness to documents is only to identify the parties. After investigation, both these persons have been shown as innocent and their names have been kept in column No.2.

The perusal of the record does not show anything that Vijay Kumar and Sukhvir Singh have connived with the main accused. Even if it

complainant at the instance of above-said persons, even then, as per the facts of the case, earlier agreement to sell was cancelled and another agreement was executed between the parties. There is nothing on the record to show nor there is any allegation that Vijay Kumar and Sukhvir Singh have received any benefit in the transaction.

For summoning additional accused, it should appear to the Court that the persons sought to be summoned as additional accused are involved in the commission of the offence and should be tried along with main accused. From the record, I find that it does not appear to the Court from the evidence that Vijay Kumar and Sukhvir Singh are also involved in the commission of the offence.

In view of the above discussion, I find that the impugned order dated 14.09.2016 passed by learned JMIC, Amloh, is correct, as per law and the same is upheld.

Therefore, finding no merit in the present revision petition, the same is dismissed.

May 10, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No