

CRR-1525-2017 (O & M)

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

CRR-1525-2017 (O & M)

Date of Decision: 28.04.2017

Avinash Chander

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Rajesh Kapila, Advocate,
for the petitioner.

INDERJIT SINGH, J.

CRM-13955-2017

This is an application for condonation of delay of 40 days in
filing the revision.

Heard.

For the reasons, mentioned in the application, the same is
allowed and delay of 40 days in filing the revision is condoned.

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Petitioner-Avinash Chander has filed this revision against
respondents-State of Punjab, J.P.Salwan, the then Tehsildar, Gurdaspur
and Darshan Singh, Registry Clerk, Gurdaspur, under Section 401
Cr.P.C. for quashing of order dated 16.12.2016 passed by learned Chief
Judicial Magistrate, Gurdaspur whereby application filed by State

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through learned A.P.P. under Section 319 Cr.P.C. for summoning of respondent Nos.2 and 3, as additional accused, was dismissed.

I have heard learned counsel for the petitioner and perused the record.

From the record, I find that challan was presented by the police in FIR No.79 dated 02.05.2012, under Sections 419, 465 and 34 IPC, registered at Police Station City Gurdaspur, against accused namely Balbir Singh alias Binda, Raksha Devi, Darshan Kumar, Panna Masih and Jagir Singh. During the pendency of trial, an application under Section 319 Cr.P.C. was filed by learned A.P.P. for summoning of respondent Nos.2 and 3 namely J.P.Salwan, the then Tehsildar, Gurdaspur and Darshan Singh, Registry Clerk, Gurdaspur, respectively, as additional accused.

Learned Chief Judicial Magistrate, Gurdaspur after going through the evidence dismissed the application under Section 319 Cr.P.C. vide impugned order dated 16.12.2016.

Aggrieved from the said order, the present revision petition has been filed.

From the record, I find that learned trial Court discussed that PW 1 complainant-Avinash Chander deposed that J.P.Salwan, Tehsildar and Darshan Singh, Sale Deed Clerk, conspired with the accused. However, except for this bald statement, there is nothing on record to substantiate the allegation/plea of the complainant that

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J.P.Salwan, Tehsildar and Darshan Singh, Registry Clerk, had conspired with other accused. The trial Court further held that PW 3 Brij Mohan Bali also deposed that the then Tehsildar J.P.Salwan and Registry Clerk were responsible for preparing false document, however, nothing has been shown as to how these two persons were conspired with other accused. Both J.P.Salwan and Darshan Singh are public servants being Tehsildar and Registration Clerk, respectively. The findings given by learned trial Court are correct, as per evidence and law and therefore, the same do not require any interference.

Furthermore, in the FIR, itself, there is no specific allegation against these two private respondents to whom the prosecution wants to summon as additional accused to face the trial. Perusal of the record shows that except the bald statement of complainant, there is nothing on record to show that J.P.Salwan and Darshan Singh have also connived with other accused. At the time of summoning the additional accused, it should appear to the Court that the persons to whom the prosecution wants to summon as additional accused to face the trial, are also involved in the commission of offence and only then additional accused can be summoned.

From the above discussion, I find that the impugned order passed by learned trial Court is correct, as per evidence and law. In no way, it can be held that the trial court has committed any illegality while passing the impugned order.

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

28.04.2017
parveen kumar

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No