

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

CRM-M-11294-2018 (O&M)

Date of Decision:-10.12.2018

Rakesh Sharma

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vikas Lochab, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner Rakesh Sharma has filed this petition challenging order dated 7.3.2018 passed by learned Additional Sessions Judge, Sonipat, whereby an application filed by prosecution so as to decide the case titled as 'State Versus Ravi Bharti' alongwith the case titled as 'State Versus Sarvan' on the ground that both the cases arise out of the same FIR, has been dismissed.
2. The learned counsel for the petitioner has submitted that since two accused had been arrayed in the FIR in question, therefore, both the accused should be tried together and that segregation of trials could lead in multiplicity of the exercise of recording evidence and could also lead to passing of conflicting judgments although based on the same evidence.
3. I have heard the learned counsel for the petitioner. In the present case, after conclusion of investigation, challan had initially been presented only against Sarvan Kumar and the trial proceeded against him and after examining the cited 26 prosecution witnesses, recording of prosecution evidence has

already concluded and the statement of the accused under Section 313 Cr.P.C. has also been recorded. As regards the co-accused Ravi Bharti, the supplementary challan was filed against him recently i.e. on 29.8.2018.

4. A perusal of order dated 17.1.2017 shows that the trial Court, while noticing the fact that accused Sarvan had been facing trial since the year 2014, when the charges were framed and 20 witnesses had already been examined by that time, had specifically ordered that the trial be conducted separately. Further, the trial Court, while dismissing application under Section 223 Cr.P.C. filed by prosecution, had noticed this very fact that while the case of Sarvan Singh is at advance stage, the case of co-accused Ravi Bhatri is at the stage of consideration of framing of charges and consequently the trial Court did not find any valid ground to review/recall the order dated 17.1.2017 for holding the trials of both the accused separately. This Court in State of Punjab Versus Bharat Inder Singh and others 2011(22) R.C.R. (Criminal) 871, where out of several accused one was not served, held that the trial of such accused must be segregated and ordered for segregation of the trial. Similar is the case in hand wherein trial of one of the co-accused i.e. Sarvan Kumar is virtually at the fag end i.e. at the stage of recording defence evidence, whereas in the case of other accused i.e. Ravi Bharti charges are yet to be framed.
5. This Court would also not be oblivious of the fact that in case, at this stage directions for holding a joint trial are issued then virtually it would amount to a de-novo trial qua the accused Sarvan Kumar, who has been facing trial since 2014 and the same would unnecessarily amount to further subjecting him to incarceration of trial when infact trial qua him is at fag end. In these

circumstances, the trial Court was perfectly justified in dismissing the application filed by petitioner under Section 223 Cr.P.C. for holding a joint trial. The impugned order dated 7.3.2018 is upheld. There is no merit in this petition and the same is hereby dismissed.

6. It is, however, directed the trial Court shall take effective steps for expediting the trial in respect of the accused Ravi Bharti.

10.12.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No