

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

**CRM No.M-22485 of 2015
Decided on: 02.02.2018**

Ranjit Singh @ Goldy

....Petitioner

Versus

Santosh Kumar and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Kunal Dawar, Advocate
for respondent No.1.

Mr. Naveen Sheoran, DAG, Haryana
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting-aside/quashing the order dated 15.05.2015 (Annexure P1) passed by the Revisional Court i.e. the Additional Sessions Judge, Faridabad in Criminal Revision No.50 of 2014 vide which the petitioner has been summoned to face the trial under Section 319 Cr.P.C.

Brief facts of the case are that two accused persons namely Manohar Lal and Gurcharan were facing trial in FIR No.167 dated 31.05.2008 registered under Sections 448, 452, 506, 427 read with Section 34 IPC at Police Station Kotwali. During pendency of the trial before the Judicial Magistrate Ist Class, Faridabad, an application was moved by the prosecution under Section 319 Cr.P.C. for summoning the petitioner – Ranjit Singh @ Goldy as an additional accused. The trial Court vide its judgment dated 16.10.2013 dismissed the application

(Annexure P2).

Thereafter, the complainant/respondent No.1 – Santosh Kumar filed a revision before the Revisional Court at Faridabad. A perusal of the memo of parties of the revision filed by the respondent/complainant – Santosh Kumar show that only the State of Haryana was arrayed as a party/respondent. The Revisional Court vide its impugned order dated 15.05.2015 has set-aside the order dated 16.10.2013 passed by the trial Court and has ordered that the petitioner – Ranjit Singh @ Goldy be summoned as an additional accused to face the trial.

Counsel for the petitioner has submitted that there is patent illegality in the impugned order passed by the Revisional Court as it is mandatory under Section 399 read with Section 401(2) Cr.P.C that no order shall be passed prejudicing the right of an accused or any other person unless he has been given an opportunity of being heard either personally or through his pleader in his own defence. Counsel for the petitioner has relied upon the judgment ***“Manharibhai Muljibhai Kakadia and another vs Sahileshbhai Mohanbhai Patel and others”***, 2012(4) RCR (Criminal) 689 wherein the Hon'ble Supreme Court of India has held that in case, the Revisional Court reverses the order passed by the Magistrate, which may adversely affect the right of an accused or any other person, an opportunity of hearing should be granted to him by passing such order. Similar view has been taken by the Hon'ble Supreme Court in ***“Rameshan P.O. vs Rakesh Kumar Yadav”***, 2010(5) RCR (Criminal) 555.

Counsel for the respondent has not disputed the factual

position that the Revisional Court, before passing the impugned order has issued notice only to the State of Haryana and the petitioner whose rights are prejudiced by this impugned order dated 15.05.2015 was neither arrayed as respondent nor was ever afforded any opportunity of hearing before passing the said order.

In view of the above, the impugned order dated 15.05.2015 is set-aside and the matter is remitted back to the Revisional Court i.e. Additional Sessions Judge, Faridabad to decide the matter afresh, in accordance with law after affording an opportunity of hearing to the petitioner.

The parties through their counsel are directed to appear before the trial Court on 26.02.2018.

02.02.2018
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(ARVIND SINGH SANGWAN)
JUDGE

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