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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sanjiv Kumar Sharma
2018.06.08 13:08
I attest to the accuracy and
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CRM No. M-23939-2018 (O/M)
Date of decision : 6.6.2018

Sunehara Singh

..... Petitioner(s)

Versus

State of Haryana and others

..... Respondent(s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Naveen Gupta, Advocate,
for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Heard. Petitioner has impugned order dated 17.2.2018 (Annexure-P-1), passed by learned Sub Divisional Judicial Magistrate, Narwana, vide which an application filed under Section 319 Cr.P.C. by Sunehera Singh, duly forwarded by APP to summon Daya Nand as additional accused was dismissed. Also impugned in present petition is order dated 9.5.2018 (Annexure-P-2), passed by learned Additional Sessions Judge, Jind, vide which his revision against order dated 17.2.2018 (Annexure-P1) was dismissed.

The allegations levelled against Daya Nand were that he was not entitled to BPL card, but he got it prepared. Sunehera Singh (petitioner) claims to be a whistle blower. As a result of writ petition filed by him before this Court i.e. CWP No. 1581 of 2010, an inquiry was conducted by ADC Jind, FIR was registered against Daya Nand. During investigation, it was found that Daya Nand was entitled to get BPL card. He was found innocent

and accordingly challan was presented before trial Court without giving any reasoning as to how Daya Nand has not committed any offence. Now, when the case was at argument stage, present application was filed. Earlier also, an attempt was made to summon Dr. Kuldeep and Vinod Patwari as additional accused under Section 319 Cr.P.C. However, order of trial Court was reversed by learned Additional Sessions Judge, Jind.

The learned counsel for petitioner has referred to authority of Hon'ble Supreme Court in *Brijendra Singh and others Versus State of Rajasthan*, (2017) 7 Supreme Court Cases 706, and has pressed that words used in Section 319 Cr.P.C. are that powers under Section 319 Cr.P.C. are to be exercised where a person is to be tried together with accused. The prospects of conviction are not to be examined as observed by learned Additional Sessions Judge, Jind. Further reference has been made to authority of Hon'ble Supreme Court in *Rajendra Singh Versus State of U.P. And another*, (2007) 7 Supreme Court Cases 378, and it has been pressed that application under Section 319 Cr.P.C. for summoning a person as an additional accused can be filed at any stage. It is further argued that mere fact that trial against co accused has been completed is no ground not to exercise power under Section 319 Cr.P.C.

I am of the view that mere statement of complainant is not sufficient. The trial Court while taking cognizance and framing charges did not find sufficient ground to summon Daya Nand as additional accused. Trial Court did not find any merit and dismissed the application filed under Section 319 Cr.P.C. After going through the impugned orders, I do not find sufficient grounds to summon Daya Nand under Section 319 Cr.P.C. Therefore, there is no ground to interfere with orders passed by two Courts

below. Consequently, petition is dismissed.

(KULDIP SINGH)
JUDGE

6.6.2018
sjks

Whether speaking / reasoned	:	Yes / No
Whether Reportable	:	Yes / No