

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

**CRM-M-34847 of 2017**  
**Date of decision: 10.10.2018**

Rajinder Paul Gupta

.... Petitioner

Versus

State of Punjab and another

.... Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Rajat Malhotra, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. R.S. Duggal, Advocate  
for respondent no.2.

**SURINDER GUPTA, J.**

Petitioner-Rajinder Paul Gupta is one of the accused in case bearing FIR No.94 dated 01.04.2006, registered at Police Station Division no. 5, Ludhiana for offences punishable under Sections 420/467/468/471/120-B of Indian Penal Code (for short 'IPC'). He moved application before the trial Court under Section 319 Cr.P.C. for summoning of respondent no. 2-Naresh Kumar Aggarwal as additional accused, which was dismissed by learned trial Court and the revision filed by petitioner was also declined by Additional Sessions Judge, Ludhiana.

2. FIR was registered on the statement of Hari Dutt Dumra, wherein he alleged that accused, S.P. Goyal forged signatures of complainant on agreement to sell dated 21.09.1987 and got the agreement attested from petitioner-Rajinder Paul Gupta and respondent no. 2-Naresh Kumar Aggarwal. During investigation, the police found respondent no. 2 as innocent. His name was mentioned in column no. 2 of the challan.

3. In the application filed by the petitioner under Section 319 Cr.P.C., it was alleged that both petitioner as well as respondent no. 2-Naresh Kumar Aggarwal were witness to agreement on which complainant is alleging his signatures to be forged, as such, both stand on the same footing, as such, respondent no. 2-Naresh Kumar Aggarwal, who has been projected as prosecution witness, may also be summoned to face trial as additional accused.

4. While declining the application of petitioner, learned trial Court observed as follows:-

*“.....Perusal of the file further shows that statement of Narseh Kumar Aggarwal was recorded under Section 164 of Cr.P.C., to the effect that accused S.P. Goyal being his client with regard to income tax matters since 1969, came to his office accompanied by Rajinder Pal Gupta and obtained his signatures on the pretext that he was to identify the signatures of S.P.Goyal and Rajinder Pal Gupta. He further stated that complainant Hari Dutt Dumra had never signed in his presence nor he knew complainant personally. As such, in view of the aforesaid, as per investigations conducted by the police, Naresh Kumar Aggarwal was not found to have been a party to conspiracy regarding forgery of the agreement in question.....It is also pertinent to note here that as per the certified copy of judgment dated 23.12.2011, Ex. P5, passed in civil suit instituted by accused S.P. Goyal for specific performance of the agreement in question, applicant/accused Rajinder Pal Gupta is shown to have deposed as PW3, in*

*support of due execution of the agreement dated 21.09.1987, which was found by the court to be a forged document. Importantly, Naresh Kumar Aggarwal, had not deposed in the said civil suit in support of due execution of the agreement. As such, applicant/accused Rajinder Pal Gupta is precluded from alleging that his case was on same footing as that of Naresh Kumar Aggarwal.”*

5. Learned trial Court observed that there is no strong or cogent evidence against respondent no. 2-Naresh Kumar Aggarwal so as to summon him to face trial as additional accused. Court of revision below also endorses the observations of trial Court. Though, it took note of the fact that petitioner-Rajinder Paul Gupta was not arrayed as respondent before the Court of revision but it proceeded to decide the application on merit instead of dismissing the same on the sole ground of not impleading respondent no. 2-Naresh Kumar Aggarwal as party. The police has investigated the matter in detail. No evidence on record has been pointed out by learned counsel for the petitioner to make out a strong case for summoning respondent no. 2-Naresh Kumar Aggarwal. Merely because the petitioner as well as Naresh Kumar Aggarwal both were signatory to agreement is not sufficient to draw presumption that case of both stand on parity. The investigating agency has looked into this aspect and has found that petitioner besides signing the agreement as witness had also appeared before the Civil Court to support the assertion of the vendee that complainant had executed the agreement and signed the same in his presence. Respondent no. 2 never appeared as witness in the civil suit and has explained to investigating agency the circumstances under which his

signatures were obtained on the agreement. Learned trial Court has rightly observed the intention of petitioner while seeking summoning of respondent no. 2-N.K. Aggarwal as additional accused and has committed no error while declining his prayer. I find no legal or factual infirmity in the order passed by Courts below calling for any intervention in this petition, which has no merit and the same is dismissed.

October 10, 2017  
jk

(SURINDER GUPTA)  
JUDGE

***Whether speaking/reasoned: Yes/No***

***Whether Reportable: Yes/No***