

S.No.120

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

CRM-M-38569 of 2018 (O&M)

Date of Decision:05.09.2018

Prabhkiran Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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

Rajbir Sehrawat, J.(Oral)

This is a petition filed seeking relief as under:-

“Petition under Section 482 Cr.P.C for quashing the impugned order dated 23.05.2018 passed by Judicial Magistrate, Ist Class, Mohali (Annexure P.11), whereby the proceedings against the respondents No.2 to 21 have been dropped or the proceedings initiated against the petitioner be also ordered to be dropped/ quashed in case FIR No.85 dated 11.08.2011, under Section 420, 465, 467, 468, 471 IPC registered at Police Station Mataur, District SAS Nagar (Annexure P-1).

It is not disputed by counsel for the petitioner that the order of summoning the respondents No.2 to 21 under Section 319 Cr.P.C was quashed by this Court and the order of this Court was upheld by the Hon'ble Supreme Court. The order of the Supreme Court is also placed on record. Therefore, there cannot be any case/ proceedings surviving against respondents No.2 to 21.

According to counsel for the petitioner, the basis for filing the present petition is that although the summoning order was quashed and quashing was also upheld upto the Supreme Court, however, the same was not brought to the notice of the trial Court in an appropriate manner. Therefore, the charge has been framed against respondents No.2 to 21. This charge has not been quashed by any Court so far. Hence, the proceedings against respondents No.2 to 21 cannot be taken to be dropped.

Having heard the counsel for the petitioner, this Court finds that the summoning order issued under Section 319 Cr.P.C against the respondents was quashed by this Court and that quashing order was upheld by the Supreme Court in the year 2018. However, probably, because of not bringing it to the notice of the trial Court, the charge was already framed in the year 2017. But the fact remains that since the order of summoning under Section 319 Cr.P.C, passed against respondents No.2 to 21, itself has been quashed and this quashing is upheld right upto the Supreme Court, therefore, any proceedings against these respondents based on that order under Section 319 Cr.P.C cannot survive by any means. The entire proceedings subsequent thereto, has to be treated as nonest and not having any effect upon respondents No.2 to 21. Therefore, the present petition is liable to be dismissed on this account alone.

Finding no ground on the merits of the case, the same is dismissed.

September 05, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No