

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

201

CRR-61 of 2010

Date of Decision: August 03, 2018

Ram Kumar and another

.....Petitioner(s)

versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rishab Lohan, Advocate for
Mr. R. N. Lohan, Advocate
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Sudhir Mittal, J. (Oral)

In this revision petition, challenge has been laid to the order dated 17.11.2009, whereby the learned Sessions Judge, Jind, has set aside order dated 16.05.2009 passed by Judicial Magistrate Ist Class, Jind, whereby an application under section 319 Code of Criminal Procedure, 1973 (for short "Cr.P.C.") moved by the prosecution had been rejected. As an outcome of the impugned order, the petitioners stood summoned as additional accused.

Vide order dated 14.01.2010, the operation of the impugned order was stayed.

Learned State counsel on instructions from ASI Randhir Kumar, submits that meanwhile the trial has been concluded against the other three accused and they have been acquitted vide judgment dated 09.12.2015 passed by

the JMIC, Jind.

Since the main accused have already been acquitted, no purpose would be served by trying the petitioner as additional accused. In any case, the learned Sessions Judge, Jind, has erred in interpreting the judgment of Hon'ble Supreme Court of India in Hardeep Singh Vs. State of Punjab and others reported in 2014(3)S.C.C.92 wherein it has been clearly laid down that the satisfaction of the Court, summoning additional accused, under section 319 Cr.P.C should be more than a prima facie as exercised at the time of framing charge but short of satisfaction to an extent that evidence, if not rebutted may lead to conviction. In this case, apart from the statement of the complainant, there was no material on record on the basis of which the Sessions Judge, Jind, could record satisfaction more than a prima facie case. The complainant had merely reiterated the story put-forth in the FIR .

In view of the above, the present petition is allowed and impugned order dated 17.11.2009, passed by the learned Sessions Judge, Jind, is set aside.

August 03, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No