

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

Criminal Misc. No.M-4872 of 2018 (O&M)

Date of Decision: October 10, 2018

Janak Singh and another

.....PETITIONER(s).

VERSUS

State of Haryana and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. N.S. Shekhawat, Advocate
for the petitioner (s).

Ms. Dimple Jain, A.A.G. Haryana.

Mr. Sanjeev Kumar Birla, Advocate
for respondent No.2.

SURINDER GUPTA, J.

This is petition under Section 482 Code of Criminal Procedure seeking quashing of order dated 10.11.2017 passed by Additional Sessions Judge, Jhajjar, whereby petitioner Janak Singh and Balwant Singh were ordered to be summoned to face trial for the offences punishable under Sections 148, 323, 506 read with Section 149 of Indian Penal Code and 3 (1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

In case bearing FIR No.433 dated 22.07.2011 registered at Police Station Jhajjar, challan was presented against Joginder Singh and others. During the pendency of the trial, an application was moved by complainant Amarjit to summon the petitioners as additional accused, however, the application was dismissed by the trial Court. Aggrieved by the

order of the trial Court, he filed revision before the Court of Additional

Sessions Judge, Jhajjar. In that revision, he had not impleaded the petitioners as party. As per provisions of Section 401 (2) Cr.P.C., no order in revision can be passed to the prejudice of the accused or any other person unless he has had an opportunity of being heard either personally or by pleader in his own defence. The impugned order has been passed by the Court below in the absence of the petitioners and without hearing them, as such, is not sustainable in the eyes of law. Respondent No.2-complainant will be at liberty to implead the petitioners as party before the Court of Revision.

Learned counsel for the petitioners submits that besides the above legal infirmity, there are other legal lacunae also in the order passed by the Court of Revision below and he be allowed to raise all the pleas taken in this petition before the Court of Revision in case, respondent No.2-complainant impleads the petitioner as party.

Request of learned counsel for the petitioners is allowed. Order dated 10.11.2017 (Annexure P-1) is set aside with liberty to respondent No.2-complainant to approach the Court of Revision again with application to take up the revision on board and to implead petitioners as party, if he so desires. On filing of such application, Court of Revision below will decide the revision petition afresh without being influenced by any observations made in the earlier order.

This revision petition is accepted accordingly.

October 10, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No