

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

**CRM-M No.48595 of 2017 (O&M)
Decided on: 14.03.2018**

Dr. Jatinder Narula

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Liaqat Ali, Advocate for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.8346 of 2018

Heard.

Allowed as prayed for.

Statements of prosecution witnesses (Annexure P8) are taken on record.

MAIN CASE

Prayer in this petition is for setting-aside the order dated 23.11.2016 passed by the trial Court vide which the application filed by the petitioner under Section 319 Cr.P.C. for summoning respondents No.2 to 4 as additional accused in FIR No.250 dated 26.05.2013 registered under Sections 420, 423 and 465 IPC at Police Station Tripuri, Patiala has been dismissed and also the order dated 27.10.2017 vide which the revision filed by the petitioner was dismissed.

Brief facts of the case are that the petitioner/complainant got the aforesaid FIR registered against Raj Dulari, Gurinder Singh, Parminder Singh, Amit Bansal, Parkash Singh, Balkar Singh and

Kashmir Singh with the allegation that the sale deed dated 10.03.2010 qua property of the petitioner executed by one Gurinder Singh on the basis of a power of attorney executed by Raj Dulari are fake and fabricated document. The police after investigation, dropped the proceedings against respondents No.2 to 5 and submitted the report under Section 173 Cr.P.C. only against accused – Gurinder Singh, Raj Dulari and Parminder Singh. One of the accused namely Kashmir Singh was declared as proclaimed offender.

After framing of the charge, the statement of the complainant was recorded as PW1 and thereafter, he moved an application under Section 319 Cr.P.C. for summoning the accused – Amit Bansal, Parkash Singh and Balkar Singh as additional accused with the allegation that they were also part of the conspiracy when the property owned by the complainant was sold by Gurinder Singh on the basis of a forged GPA executed by Raj Dulari in his favour and subsequently, he has sold the property in favour of Amit Bansal and Paraksh Singh vide sale deed dated 10.03.2010 and Balkar Singh was an attesting witness to the sale deed.

The respondent contested the application and the trial Court vide its impugned order dated 23.11.2016 dismissed the application holding that no specific allegations are made out against respondents No.2 to 4, sought to be summoned as additional accused and there is no reason to disbelieve the police enquiry report at this stage.

Thereafter, the petitioner filed a revision before the Revisional Court and the Additional Sessions Judge vide its judgment

dated 27.10.2017 dismissed the revision petition.

Counsel for the petitioner has submitted that it is the case of the petitioner/complainant in the FIR as well as in his statement made in the Court as PW1 that all the accused persons were in conspiracy with each other and in order to grab the property of the petitioner, have fabricated the documents and, therefore, there is sufficient evidence to summon respondents No.2 to 4 as additional accused. It is also submitted that the property which was worth crore of rupees was allegedly sold by way of a sale deed dated 10.03.2010 and the GPA and the sale deed has already been set-aside by the Civil Court holding it to be a forged and fabricated documents.

After hearing counsel for the petitioner, I find no merit in the present petition. As per the allegation in the FIR, Balkar Singh has appeared as an attesting witness at the time of registration of the sale deed dated 10.03.2010 and he has only identified the parties i.e. Gurinder Singh – seller, Amit Bansal and Parkash Singh – purchaser and this fact is not in dispute and, therefore, it cannot be said that he has played any active role. So far as the role of Amit Bansal and Parkash Singh is concerned, it is own case of the complainant that they have purchased the property from Gurinder Singh, who sold it, on the basis of a forged GPA executed by Raj Dulari and they being the persons who have parted away their money for the purpose of purchasing the property have been exonerated by the police. It is also worth noticing here that statement of the complainant while appearing as PW1 is nothing but the same version which has been given by him before the police and no fresh or new evidence has come on record to

summon respondents No.2 to 4 under Section 319 Cr.P.C. It has been held by the Hon'ble Supreme Court in *“Brijendra Singh vs State of Rajasthan and others”*, 2017(3) RCR (Criminal) 374 that where the statement made before the Court is nothing but in verbatim is same, which has been given to the police under Section 161 Cr.P.C. and no fresh evidence has come on record, the trial Court has rightly refused to exercise its jurisdiction under Section 319 Cr.P.C. In the instant case, the trial Court as well as the Revisional Court has recorded a finding of fact that there is no sufficient evidence on record to prove that respondents No.2 to 4 have prima facie committed an offence or there is sufficient evidence to summon them as an additional accused under Section 319 Cr.P.C. The findings recorded by the Courts below is also based on the appreciation of the police report holding respondents No.2 to 4 have not committed the offence.

In view of the above, no ground for interference in the impugned orders passed by the Courts below is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

14.03.2018

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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No