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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2975-2015

Date of Decision : December 05, 2018

Sukhvir Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr.T.S. Sangha, Senior Advocate,
with Mr. H.S.Sangha, Advocate,
for the petitioner.

Mr. Ashok Kumar Singla, Sr. DAG, Punjab,
for respondent-State.

SHEKHER DHAWAN, J.

Present revision petition is for setting-aside order dated 15.07.2015 passed by learned Sessions Judge, Moga whereby petitioner – Sukhbir Singh was ordered to be summoned to face trial along with co-accused on an application under Section 319 Cr.P.C.

2. Facts relevant for the purpose of decision of the present controversy; that Jaspreet Singh, aged about 35 years, was found dead in his house on 15.08.2014. He was married to Jaspal Kaur and was having a son aged about 1-1/2 years. The dead body was cremated in the presence of his father, brother and other villagers. After a period of 22 days, the matter was reported to the Police. At that time, the allegations levelled by Beant Singh, brother of the deceased, were against Jaspal Kaur that she in connivance with some body murdered his brother

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(Jaspreet Singh) by intentionally giving electric shocks to him and as per the complainant, an author of the FIR, Jaspal Kaur was responsible for the murder of his brother.

3. On the basis of said statement of Beant Singh, Jaspal Kaur was tried for commission of offence punishable under Sections 302, 201 read with Section 34 IPC and was acquitted as per judgment of learned Additional Sessions Judge, Moga vide judgment dated 22.11.2017 observing as under:-

“.... It appears that refusal of Jaspal Kaur to go ahead with *kareva* marriage with Beant Singh and her demand of share in the property of her deceased husband triggered Beant Singh to connive with the police, so as to get a false FIR registered.”

4. At the time of hearing, learned senior counsel for the petitioner placed reliance on copy of judgment dated 22.11.2017 passed by Additional Sessions Judge, Moga, which has been placed on record today.

5, Learned senior counsel for the petitioner contended that despite the above facts that initially there was no doubt against any body and the dead body of Jaspreet Singh was cremated in the presence of his father, brother, who is complainant in this case, and other family members and the matter was reported to the Police by Beant Singh after about 22 days. Even at that time, there was not even a word against the present petitioner and the matter was investigated by Deputy Superintendent of Police and challan was presented before the Court below and Jaspal Kaur was tried and ultimately acquitted. Learned trial Judge has passed the impugned order on an application under Section 319 Cr.P.C. which is under challenge before this Court.

6. Having considered the above facts that initially, there was no

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suspicion against any body for causing murder of Jaspreet Singh and thereafter there were allegations and counter-allegations regarding involvement of Jaspal Kaur, who is wife of the deceased. Learned trial Judge has already considered the entire matter on merits and acquitted Jaspal Kaur holding that she had not committed the murder of Jaspreet Singh. Despite the fact that FIR was got recorded by Beant Singh after 22 days of the death, the name of the petitioner did not figure therein. His name never cropped up during investigation even and it was at the trial stage that on the basis of statement of the complainant, the impugned order on application under Section 319 Cr.P.C., was passed.

7. No doubt, Section 319 Cr.P.C. confers unfettered powers upon learned trial Court to summon any body as an additional accused if some material comes on file. Needless to say that the Court is to exercise the discretion lawfully vested in it judiciously and only in exceptional cases where the ends of justice so requires. But looking at the attending facts and circumstances of this case, that death had taken place on 15.08.2014 at the residential house of Jaspreet Singh. He was married to Jaspal Kaur. None else was present in their residential house at that time. After 22 days of the incident, eye-brows were raised upon the involvement of Jaspal Kaur, widow of the deceased and she has already been tried and acquitted of the charges, levelled against her vide judgment dated 22.11.2017 passed by learned Additional Sessions Judge, Moga. The allegations against the present petitioner are of having connivance with said Jaspal Kaur, who had already been acquitted of the charges, after trial. As the main accused has already been acquitted after trial, there is no reason or ground to summon additional accused to face trial while exercising powers

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under Section 319 Cr.P.C. As such, the impugned order is not sustainable.

8. Resultantly, the present revision petition is allowed and the impugned order dated 15.07.2015 passed by learned Sessions Judge, Moga stands set-aside.

(SHEKHER DHAWAN)
JUDGE

December 05, 2018
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes