

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.17175 of 2016
and
Criminal Revision. No.1948 of 2016

.....

Date of decision:21.9.2018

State of Punjab

...Petitioner

v.

Sukhwinder Singh Gidha

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Ms. Monika Jalota, Deputy Advocate General, Punjab for the
petitioner-State.

Mr. Kamal Chaudhary, Advocate for the respondent.

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Inderjit Singh, J.

Cr. Misc. No.17175 of 2016:

For the reasons mentioned in the criminal miscellaneous application, the delay of 207 days in filing the criminal revision petition is condoned.

The criminal miscellaneous applications stands allowed.

Cr. Revision No.1948 of 2016:

This criminal revision petition has been filed under Section 401 Cr.P.C. for quashing the impugned order dated 22.07.2015 passed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, vide which the application filed by the State under Section 319 Cr.P.C. for summoning Sukhwinder Singh Gidha as an additional accused has been

dismissed.

Notice of motion has been issued in this case.

Mr. Kamal Chaudhary, learned Advocate has appeared on behalf of the respondent and contested this revision petition.

I have heard learned State counsel as well as learned counsel for the respondent and have gone through the record.

From the record, I find that during the pendency of the challan in FIR No.08 dated 09.07.2010 registered for the offences under Sections 409, 420, 467, 468, 471 and 120 IPC and Section 13(2) of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Jalandhar against Zorawar Singh, Karam Singh and Pritam Singh, an application was filed by the prosecution under Section 319 Cr.P.C. for summoning Sukhwinder Singh Gidha as an additional accused. As per the prosecution version on 09.07.2010, one complaint was received against Sukhwinder Singh Gidha, Karam Singh, Zorawar Singh as they were indulging in the embezzlement of fee paid by the owners of vehicles and they were preparing in false documents for transfer of vehicles. It has been alleged that without obtaining the NOC with regards to Indigo car No.HR-X-3907, from the original registration authority, accused Zorawar Singh got this vehicle transferred twice. It has been also been alleged that the transfer fee levied on the transfer of vehicles in many cases was also not deposited in State Treasury by the accused persons. The accused were charge-sheeted and thereafter prosecution examined 24 witnesses and gave up 4 witnesses as unnecessary. Then the application was filed for summoning Sukhwinder

Singh Gidha as an additional accused to face trial mainly on the ground that Investigating Officer Amarjit Singh and witness Rakesh Kumar examined in the Court had categorically and specifically stated about forgery and cheating committed by Sukhwinder Singh Gidha.

The learned trial Court after going through the evidence vide order dated 22.07.2015 dismissed the application. Aggrieved from this order, the present revision petition has been filed by the State.

At the time of arguments learned State counsel as well as learned counsel for the respondent brought to the notice of this Court that the main case has already been decided.

As the application under Section 319 Cr.P.C. has been dismissed by the trial Court and additional accused has not been summoned by the Court below and now the main case has been decided, therefore, this criminal revision petition has become infructuous. It would have been otherwise if the additional accused would have been summoned and then the case is decided. But in this case, the application filed under Section 319 Cr.P.C. has been dismissed and now the main case has already been decided. This Court in Tarsem Singh v. State of Punjab and others, 2013 (3) R.C.R. (Criminal) 585, has held that the challan was put up by the Police after investigation. An application was filed by the complainant to summon two persons as additional accused to face trial, who were also involved in the commission of the offence. The application was dismissed by the trial Court. Revision was filed before the High Court against the order of dismissal. The trial had been concluded in the meantime and the accused

was convicted. The application of the complainant to summon additional accused was dismissed. It has been held that no body can be summoned as co-accused under Section 319 Cr.P.C. after conclusion of main case.

In Harjinder Singh v. State of Haryana and others, 2013 (1) R.C.R. (Criminal) 1038, this Court also held that the trial Judge has already concluded the trial, convicted and sentenced the main accused. Cause of action under Section 319 Cr.P.C. does not survive and the revision petition was dismissed.

This Court in Rakesh Kumar v. State of Haryana and others, 2013 (3) R.C.R. (Criminal) 913 has also reiterated the above law. I have gone through the law laid down in these judgments, which fully applies to the facts of this case. In view of the law laid down by this Court in the above judgments and as the cause of action now does not survive, therefore, the present criminal revision petition having become infructuous is dismissed.

September 21, 2018.

(Inderjit Singh)
Judge

hsp

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