

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2317 of 2017

.....

Date of decision:2.8.2018

Dr. Partap Singh Verka

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Manuj Nagrath, Advocate for the petitioner.

Mr. Atul Nanda, Advocate General, Punjab with Mr.
Ramandeep Sandhu, Sr. Deputy Advocate General for
the respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned order dated 20.5.2017 passed by learned Additional Sessions Judge, Amritsar, whereby the application under Section 319 Cr.P.C. filed by the prosecution for summoning Dr. Partap Singh Verka, Ortho, as additional accused to face trial along with his co-accused Vikas, has been allowed and he has been summoned to face trial.

Notice of motion has been issued in this case.

Mr. Atul Nanda, learned Advocate General, Punjab assisted by Mr. Ramandeep Sandhu, learned Sr. Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this revision petition.

I have heard learned counsel for the revision petitioner as well as learned Advocate General, Punjab and have gone through the record.

As per the impugned order dated 20.5.2017, the learned Additional Sessions Judge, Amritsar, has summoned the present petitioner Dr. Partap Singh Verka as additional accused to face trial along with co-accused on an application filed under Section 319 Cr.P.C.

Learned counsel for the petitioner has placed reliance on the law laid down by Hon'ble Supreme Court in Dilawar Singh v. Parvinder Singh @ Iqbal Singh and another, 2005 (4) R.C.R. (Criminal) 855. I have gone through the law laid down in this judgment, which fully applies to the facts of this case. The Hon'ble Supreme Court has observed as under:-

“8. The contention raised by learned counsel for the respondent that a Court takes cognizance of an offence and not of an offender holds good when a Magistrate takes cognizance of an offence under Section 190 Cr.P.C. The observations made by this Court in Raghubans Dubey v. State of Bihar (supra) were also made in that context. The Prevention of Corruption Act is a special statute and as the preamble shows this Act has been enacted to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith. Here, the principle expressed in the maxim *Generalia specialibus non derogant* would apply which means that if a special provision has been made on a certain matter, that matter is excluded from the general provisions. (See **Venkateshwar**

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Rao v. Govt. of Andhra Pradesh AIR 1966 SC 828, State of Bihar v. Yogendra Singh AIR 1982 SC 882 and Maharashtra State Board of Secondary Education v. Paritosh Bhupesh Kumar Sheth AIR 1984 SC 1543).

Therefore, the provisions of Section 19 of the Act will have an overriding effect over the general provisions contained in Section 190 or 319 Cr.P.C. A Special Judge while trying an offence under the Prevention of Corruption Act, 1988, cannot summon another person and proceed against him in the purported exercise of power under Section 319 Cr.P.C. if no sanction has been granted by the appropriate authority for prosecution of such a person as the existence of a sanction is sine qua non for taking cognizance of the offence qua that person.”

As no sanction has been obtained before summoning the additional accused in this case, therefore, the order passed by the learned Additional Sessions Judge, Amritsar, summoning the present petitioner under Section 319 Cr.P.C. before obtaining sanction is illegal, which is not as per law and the same is set aside.

Finding merit in the present criminal revision petition, the same is allowed.

August 2, 2018.

**(Inderjit Singh)
Judge**

hsp

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