

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

**CRR No.304 of 2017 (O&M)
Date of decision: July 27th, 2018**

Vikramjeet Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. A.K. Khunger, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

RAJ SHEKHAR ATTRI, J.

The above-named petitioner has challenged the order dated 5th July, 2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib vide which petitioner has been summoned to face trial along with co-accused for the offences under Section 399, 102, 379, 411, 420, 465, 467, 471, 413, 473, 483 of the Indian Penal Code (for short 'IPC') and Sections 25 of Arms Act and in another order dated 20th October, 2016 vide which charges were framed against them have also been challenged.

Briefly stated, it is a case of prosecution that on the basis of a secret information, Gurtej Singh @ Geja, Sukhdev Singh, Veer Singh and Dharamvir Singh and Gursem Singh @ Semi were apprehended while travelling in a stolen vehicle and at that time they were armed with deadly weapons. During the investigation, 41 motorcycles, one Scorpio car of red colour, one vehicle make Bolero, one tractor Make-Massey cars etc. were

recovered from them in pursuance to their disclosure statements. However, during investigation, it was found that petitioner Vikramjeet Singh had purchased one stolen car make Swift Dzire bearing No.PB-10-N-9092 for a sum of Rs.2,50,000/- and he had further sold the same vehicle to Gurjinder Singh for a sum of Rs.2,90,000/-. It is alleged that said car being stolen property, the same was also recovered from the possession of the subsequent purchaser. However, during the inquiry, Vikramjeet Singh and Dharamvir Singh were found innocent and they were not chargesheeted along with their co-accused. But on the application of public prosecutor, they were summoned vide impugned order dated 4th June, 2016 by learned trial court under the provisions of Section 193 of the Code of Criminal Procedure (for short 'Cr.P.C.').

I have heard learned counsel for the parties and have gone through the record.

Now it is well settled that while exercising its powers under Section 193 Cr.P.C., the court can take cognizance of the persons after commitment of the case. In **Hardeep Singh v. State of Punjab and others; 2014(1) RCR (Criminal) 623**, it was observed by Hon'ble Supreme Court as under:-

“In Dharam Pal's case, the Constitution Bench has already held that after committal, cognizance of an offence can be taken against a person not named as an accused but against whom materials are available from the papers filed by the police after completion of investigation. Such cognizance can be taken under Section 193 Cr.P.C. and the Sessions Judge need not wait till 'evidence' under Section 319 Cr.P.C. becomes available for summoning an additional accused ?

Section 319 Cr.P.C., significantly, uses two expressions that have to be taken note of i.e. (1) Inquiry (2) Trial. As a trial commences after framing of charge, an inquiry can only be understood to be a pre-trial inquiry. Inquiries under Sections 200, 201, 202 Cr.P.C.; and under Section 398 Cr.P.C. are species of the inquiry contemplated by Section 319 Cr.P.C. Materials coming before the Court in course of such enquiries can be used for corroboration of the evidence recorded in the court after the trial commences, for the exercise of power under Section 319 Cr.P.C., and also to add an accused whose name has been shown in Column 2 of the chargesheet. In view of the above position the word 'evidence' in Section 319 Cr.P.C. has to be broadly understood and not literally i.e. as evidence brought during a trial."

In this view of the matter, learned Additional Sessions Judge, was competent to exercise its powers under Section 193 Cr.P.C. to summon the petitioner. Therefore, the order cannot be *set aside* on this ground.

Now coming to the point of charge at the stage of framing charge, the trial court is required to consider whether there are sufficient grounds to proceed against the accused. Section 227 of the Code provides for the eventuality when the accused shall be discharged. If not discharged, the charge against the accused is required to be framed under Section 228. Similarly, in respect of warrant cases triable by Magistrates, instituted on a police report, Sections 239 and 240 of the Code are the relevant statutory provisions. Section 239 requires the Magistrate to consider 'the police report and the documents sent with it under Section 173' and, if necessary, examine the accused and after giving accused an opportunity of being heard, if the Magistrate considers the charge against the accused to be

groundless, the accused is liable to be discharged by recording reasons thereof.

In State of Bihar v. Ramesh Singh, (1977)4 SCC 39, considering the scope of Sections 227 and 228 of the Code, it was held by the Hon'ble Apex Court that at the stage of framing of charge it is not obligatory for the Judge to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. At that stage, the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion, at the initial stage of framing of charge, is sufficient to frame the charge and in that event it is not open to say that there is no sufficient ground for proceeding against the accused.

In Superintendent and Remembrancer of legal Affairs, *West Bengal v. Anil Kumar Bhunja and others* (1980)1 SCR 323 a three-judge Bench of Hon'ble the Supreme Court held that the Magistrate at the stage of framing charges had to see whether the facts alleged and sought to be proved by the prosecution prima facie disclose the commission of offence on general consideration of the materials placed before him by the investigating police officer.

After going through the material available on record, this court is of the considered opinion that nothing is on the record to presume if the charge is groundless. It is for the petitioner to establish that he was not in the knowledge if the vehicle purchased by him was in fact a stolen property.

Without commenting upon the allegations and role of the petitioner, lest it may prejudice the case of either of the party, this court is of the considered opinion that impugned orders dated 5th July, 2016 and 20th October, 2016 do not suffer from any infirmity, illegality or irregularity, therefore, the same does not call for any interference. As a result of which, this petition is devoid of any merits and the same is hereby dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

July 27, 2018
m. sharma

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