IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3552-2018 (O&M)

Date of decision: 30.10.2018

Rajpal Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. SPS Sidhu, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the order dated 07.09.2018 of the trial Court, whereby application of the petitioner-accused under Section 319 Cr.P.C., for summoning of respondent No. 2-Dr. Ramit Gupta, as an additional accused was dismissed.

Briefly, on 30.03.2015, ASI Gurlal Singh, on receipt of secret information that petitioner Dr. Rajpal Singh, was running a charitable hospital, namely; Manavta Charitable Hospital and Drug Rehabilitation Centre, in town Gurhar Sahai, claiming himself to be a Psychiatrist and that his hospital was recognized by the Government. He was cheating innocent persons on the false pretext of rehabilitating them by administering intoxicant drugs, which he was keeping without any permit or licence, making them drug addicts, conducted a raid at the aforesaid hospital of the petitioner, after joining Area Drug Inspector and Naib Tehsildar and recovered 6990 tablets of 'Cizdo' of different kind. The petitioner by making disclosure statement further got recovered 1,20,590 tablets from his

RISHU KATARIA
2018.11.13 10:47
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house. The same were also taken into possession. During investigation, the petitioner named respondent No. 2-Dr. Ramit Gupta, as a visiting doctor to his hospital as his co-accused, who was also joined in the investigation. Dr. Ramit Gupta, did not deny his visits to the alleged hospital of the petitioner, but disclosed his purpose to visit the hospital of petitioner for the treatment of daughter of petitioner, who was suffering from a psychiatric problem. Since, nothing incriminating material came against respondent No. 2-Dr. Ramit Gutpa, therefore, he was declared innocent by the Investigating Officer, by introducing him as a prosecution witness in final report under Section 173(2) Cr.P.C., filed against the petitioner to face trial under Sections 21 of the NDPS Act; Sections 420, 467, 468 and 471 IPC and Sections 18A and 18C of the Durgs and Cosmetic Act, 1940 (for short-'the 1940 Act'). The petitioner was charge-sheeted, accordingly.

During trial, petitioner-accused moved an application under Section 319 Cr.P.C., to summon respondent No. 2-Dr. Ramit Gupta, as an additional accused, which after hearing learned counsel for the petitioner and State counsel, was dismissed by the trial Court vide impugned order dated 07.09.2018.

In support of maintainability of this revision, learned counsel for the petitioner has placed reliance upon a judgment of Hon'ble the Apex Court in ***Bholu Ram Vs. State of Punjab, 2008(4) RCR (Criminal) 187,*** wherein the Apex Court has held that application for summoning of additional accused under Section 319 Cr.P.C,. can even be made by accused.

On merits, learned counsel *inter alia* contends that PW-10 Dr. Ajay Acharya, Director, Micron Pharmaceutical and Authorized person

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2018.11.13 10:47
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of Maan Phrmaceutical Limited, Ahemdabad, Gujarat, deposed that all the purchase orders were given to him by Dr. Ramit Gupta. The trial Court in the impugned order had also observed that some of the purchase orders bear the signatures of Dr.Ramit Gupta. Therefore, complicity of Dr. Ramit Gupta, with the petitioner is well proved on the record and, thus, trial Court has erred in not summoning Dr. Ramit Gupta, as an additional accused upon the application of the petitioner under Section 319 Cr.P.C.

Having given anxious consideration to the submissions of learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

Undisputedly, petitioner is the owner of Manavta Charitable Hospital and Drug Rehabilitation Centre, Gurhar Sahai. No document whatsoever in the shape of any partnership deed or any agreement is being produced by the petitioner before the trial Court or before this Court in support of his assertion that Dr. Ramit Gupta, was equally responsible with him, for administering intoxicant drugs to the innocent people, making them addicts and to rebut the stand of Dr. Ramit Gupta, that he used to visit said hospital of the petitioner, being a qualified Psychiatrist to treat the daughter of petitioner having psychiatric problem.

During investigation, Dr. Ramit Gupta, was found innocent by the Investigating Officer. As far as plea of the petitioner that Dr. Ramit Gupta, was his employee and used to give purchase orders has also no legs to stand, inasmuch, as Dr. Ramit gupta, as PW-11 before the trial Court has testified that a sum of ₹ 15,000/- was received by him in his account from the account of Nishkam Sewa Society, prior to the registration of instant case against the petitioner. In cross-examination, he admitted that

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Dr. Rachna Mittal, Additional Deputy Commissioner, visited the hospital run by Nishkan Sewa Society. The petitioner has also not been able to prove any nexus or relation in between the Manavta Charitable Hospital and Drug Rehabilitation Centre, Gurhar Sahai and Nishkam Sewa Society.

Mere signing of some purchase orders by Dr. Ramit Gupta, did not *ipso facto* prove his complicity with the petitioner for running a rehabilitation centre, when no document proving interest of Dr. Ramit Gupta, has been brought on record. It is possible that on request of the petitioner, Dr. Ramit Gupta, being a qualified Psychiatrist, must have placed some orders being mandatory requirement to place orders of intoxicant tablets prohibited under the NDPS Act and the 1940 Act, but there is no proof on record that Dr. Ramit Gupta, used to acknowledge and receipt the intoxicant tablets which were delivered at the fake centre of the petitioner. Dr. Ramit Gupta, is not the recipient of prohibited drugs, rather petitioner only is the recipient of the same. Therefore, by any stretch of imagination, Dr. Ramit Gupta, cannot be summoned as an additional accused.

The petitioner has not denied that he is running the aforesaid de-addiction centre, without any permit, licence or authorization from the Government, if any, required.

It is also a debatable point as to whether the petitioner was having any qualified degree to run the said centre.

It seems that the petitioner just to cover up his guilt with *mala fide* intention moved application under Section 319 Cr.P.C., to summon Dr. Ramit Gupta, as his co-accused to create confusion in the mind of the Court, which is his deliberate attempt to shift of his guilt upon Dr. Ramit Gupta, an innocent person, who simply visited the premises of petitioner for

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2018.11.13 10:47
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treatment of his daughter, suffering from some psychiatric problem.

Perusal of the impugned order shows that Dr. PK Bedi, was also signatory to some of the purchase orders on behalf of the petitioner, so, according to the petitioner, he should also be equally responsible for purchasing prohibited drugs, but petitioner did not pray to the trial Court to summon said Dr. PK Bedi, also as an additional accused for the reasons best known to him.

I have carefully gone through the impugned order and find no illegality or perversity in the same.

Dismissed.

It is clarified that anything observed here-in-above shall not be construed as an expression of opinion, on the merits of the case.

October 30, 2018 **(RAMENDRA JAIN)**
rishu **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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