

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

CRM No.M-27737 of 2018 (O&M)

Date of Decision: July 25, 2019

Gurdev Singh @ Sabu @ Sabhu

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Dheeraj Mahajan, Advocate
for the petitioner.

Mr.Prabhjot Singh Walia, AAG, Punjab
for the respondent-State.

Mr.R.K.Arya, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner Gurdev Singh @ Sabu @ Sabhu has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Pal Singh for quashing of order dated 16.03.2017 passed by learned Addl. Chief Judicial Magistrate, Gurdaspur, whereby application under Section 319 Cr.P.C. filed by the complainant was allowed and petitioner was summoned as additional accused to face trial in case FIR No.78 dated 12.11.2014, under Sections 341, 506, 427, 447, 511, 148 and 149 IPC etc., as the petitioner had already been declared innocent during the investigation by the police authorities as per challan and was not present in India at the

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

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

Today, the petitioner is present in the Court with the original passport, which has been shown to learned counsel for respondent No.2-complainant also. The entries in the passport show that at the relevant time i.e. on the date of occurrence, the petitioner was not in India and was in foreign country. The Investigation Officer has also found during investigation that petitioner was not in India at that time. Learned counsel for respondent No.2-complainant has also seen the entries and admitted that petitioner was not in India at the time of occurrence.

Keeping in view the above facts and circumstances of the present case, I find that passing of impugned order dated 16.03.2017 is nothing but abuse of process of law and amounts to miscarriage of justice. The petitioner has not participated in the occurrence as he was abroad, therefore, the impugned order dated 16.03.2017 passed by learned Addl. Chief Judicial Magistrate, Gurdaspur, is set aside qua the petitioner.

Finding merit in the present petition, the same is allowed accordingly.

July 25, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No