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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15860-2019 (O&M)
Date of decision-15.07.2019

Rajesh Pal

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. B.S.Rana, Senior Advocate with
Mr. Deepak Gollen, Advocate for the petitioner.

MANOJ BAJAJ, J.

This petition has been filed under Section 482 Cr.P.C to challenge the order dated 11.03.2019 whereby the revisional Court has upheld the order dated 20.10.2018 passed by the trial Court refusing to summon Kulwinder Singh as an additional accused, by dismissing the application under Section 319 Cr.P.C filed by the complainant. The prosecution arises from the case FIR No. 157 dated 08.06.2006 registered for the offences punishable under Sections 420, 467, 468, 471 and 120-B of Indian Penal Code, 1860 at Police Station Division No.5, Ludhiana.

The FIR was registered on the statement of complainant Rajesh Pal wherein it was alleged that he runs a Commission Agent shop M/s Pirthi Chand Kaushal at Khanna. Some paddy was delivered to M/S Om Parkash Ramesh Kumar Rice Mills by their firm after purchase from mandi and out of that transaction, a sum of Rs.14,68,466.80/- was due towards the said rice mill. The suit brought by complainant for recovery was decreed and the

amount was to be realized through auction which took place on 31.10.1991. The complainant was the auction purchaser as well. When the proceedings were placed before the Court for confirmation of the sale, one Ram Murti son of Narata Ram raised objections on the ground that land measuring 02 kanal 19 marlas already stands purchased by him out of the auction property. According to the complainant, the Court observed that this land of 02 kanal and 19 marlas was not personal property of any person as the purchaser was real maternal uncle of the seller. The Court had adjourned the case *sine die* till the decision of the objection filed by Ram Murti. According to the complainant, when his case was put up for sanction of mutation before SDM Ludhiana, then Pawan Kumar, Om Parkash, Ramesh Kumar partners of the said Rice Mill and one Harbans Singh son of Saradara Singh filed objection that mutation may not be sanctioned in favour of the said firm, namely, Pirthi Chand Kaushal. However, the SDM Ludhiana proceeded to sanction the mutation in respect of land measuring 12 kanal and 16 marlas in favour of Pirthi Chand Kaushal and mutation regarding 2 kanal 19 marlas was kept pending till the decision of the Civil Court. It was narrated by the complainant that Harbans Singh got executed the sale deed on 09.04.1994 in favour of himself and the date of the sale deed was also altered by the accused as 09.09.1994. It is the case of the complainant that subsequently, Harbans Singh had executed the sale deed in favour of Raghbir Singh son of Teja Singh and Kulwinder Singh son of Bant Singh by transferring half share to each of the purchasers. Thereafter, on 29.03.1995, Kulwinder Singh filed a suit for permanent injunction, however, the same was dismissed on

19.04.1997 and appeal filed on 02.12.1999 also failed. In nutshell the FIR was lodged on the ground that the sale deed executed in 1994 in favour of Harbans Singh was based upon the forged power of attorney purported to be executed by Ram Murti in favour of Gulzar Singh.

Learned Senior Counsel has contended that the evidence on record adduced by the prosecution suggested involvement of Kulwinder Singh as an accused and therefore, he deserves to be summoned as an additional accused to face trial along with the co-accused. However, it is not disputed by learned Senior counsel that previously the trial in the case had ended in acquittal of all the accused on 12.08.2015 and appeal against acquittal was accepted on 25.07.2016 and the matter was remanded to trial Court. Thereafter, the revision petition bearing No.CRR-3249-2016 was filed before this Court which was dismissed, however, a direction was issued that trial Court would grant simply one opportunity to respondent No.2 to conclude his testimony as PW-1. It was further directed that the trial be concluded within six months. It was after recording the evidence of PW-1, Rajesh Pal, application under Section 319 Cr.P.C was filed for the first time seeking summoning of Kulwinder Singh as an additional accused in the case and the said prayer was declined by the trial Court on 20.10.2018.

Learned Senior counsel has contended that the property in question was purchased by Kulwinder Singh and Raghbir Singh from co-accused Harbans Singh who acquired the title through sale deed executed in the year 1994 on the strength of power of attorney of Ram Murti. It is not disputed by learned Senior counsel that the said sale deed in favour of

Harbans Singh was never challenged by the complainant. It is the case of the complainant that the transfer of property in the name of Harbans Singh was a fraudulent act and there is nothing on record that Kulwinder Singh was involved in the said transaction. Learned Senior counsel is unable to point out any material to establish the involvement of Kulwinder Singh in the said transaction. Mere fact that Kulwinder Singh subsequently purchased the property from Harbans Singh cannot be a sufficient ground for summoning him as an additional accused. A perusal of the impugned order reveals that trial Court has examined each and every aspect of the case minutely, while declining the revision petition.

Resultantly, this Court does not find any valid reason to interfere with the same.

Petition is dismissed.

15.07.2019

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No