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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-3096-2017 [O&M]

Date of Decision : May 17, 2019

Gurmit Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. R.S.Ghuman, Advocate,
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab,
for respondent-State.

Mr. J.S. Lalli, Advocate,
for respondents No. 2, 7 and 8.

Mr. Liaqat Ali, Advocate,
for respondent No.4.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for quashing order dated 9.1.2017 (Annexure P/1) passed by learned Additional Sessions Judge, Jalandhar and order dated 20.09.2016 (Annexure P/2) passed by learned Judicial Magistrate Ist Class, Phillaur whereby the application moved by the petitioner for summoning of respondent No. 8 as an accused was dismissed.

2. Facts relevant for the purpose of decision of the present petition; that the present petitioner had filed an application under Section 319 Cr.P.C. before learned Magistrate for summoning of Balihar Singh son of Ajit Singh for his trial alongwith other co-accused. As per the

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complainant, above mentioned Balihar Singh son of Ajit Singh alongwith other accused armed with deadly weapons trespassed into their house and committed various offences as detailed in the complaint. However, because of accidental omission on the part of the complainant, name of Balihar Singh son of Ajit Singh could not be mentioned in the title of the complaint and as such, learned Magistrate did not summon said Balihar Singh son of Ajit Singh. On 13.12.2013, petitioner filed an application under Section 319 Cr.P.C., for summoning of Balihar Singh son of Ajit Singh and on 21.1.2014, the said application was dismissed by learned Magistrate. The petitioner filed revision petition against the said order before learned Additional Sessions Judge and the same was dismissed as withdrawn with permission to file a fresh application under Section 319 Cr.P.C. Accordingly, the petitioner filed another application under Section 319 Cr.P.C. on 9.5.2014 before learned Magistrate. The said application was also dismissed vide order dated 19.12.2014 by learned Magistrate. Again the said order was challenged before learned Additional Sessions Judge, Jalandhar, which was dismissed on 27.7.2015.

3. At the time of arguments, learned counsel for the petitioner contended that said Balihar Singh son of Ajit Singh was actively involved in the commission of offence and he had entered the house of the complainant, but inadvertently, his name was not mentioned in the complaint titled **Gurmit Singh Vs. Piara Singh and others**, filed by the complainant and subsequently, application was filed for summoning of Balihar Singh son of Ajit Singh. Though, in the complaint there were allegations against Balihar Singh son of Ajit Singh, but the same has been dismissed by the Courts below ignoring all these facts.

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4. While arguing on this point, learned State counsel as well as learned counsel representing the complainant, contended that the complaint titled **Gurmit Singh Vs. Piara Singh and others** was filed on 6.9.2008 and the summoning order was passed on 16.09.2013. First application under Section 319 Cr.P.C. filed by the petitioner for summoning Balihar Singh son of Ajit Singh was dismissed by learned Magistrate and the revision petition was filed which was withdrawn. Subsequently, another application under Section 319 Cr.P.C. was filed which too was dismissed by learned Magistrate on 19.12.2014 and thereafter, revision was also dismissed vide order dated 27.7.2015 passed by learned Additional Sessions Judge. Challenge in the present case is to the order dated 9.1.2017 (Annexure P/1) passed by learned Magistrate in the 3rd application under Section 319 Cr.P.C. The said order was again challenged before learned Additional Sessions Judge and the revision petition was dismissed on 20.09.2016 (Annexure P/2). As such, the present petition is clearly an abuse of process of the Court. In fact, the present complaint is counter-blast to the FIR No. 133 dated 11.08.2007 under Sections 307, 324, 341, 323, 148 and 149 IPC registered at Police Station Nurmahal, District Jalandhar and all the six accused in the said case were convicted and sentenced vide judgment dated 5.9.2011 (Annexure R/1). More so, if it is a case of version and cross-version, there was no reason for filing of complaint after a period of one year because the complaint was filed on 6.9.2008 and the alleged occurrence had taken place on 8.8.2007. As such, the present petition is without any merit and the same be dismissed.

5. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the

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considered view that this case has a checkered history, where the petitioner had repeatedly approached the Courts for the same grievance and the same were repeatedly declined by learned Magistrate and thereafter revision petition was also dismissed. There was no dispute on the fact that initially the complaint was filed after a period of one year and there was no explanation for the unreasonable and unexplained delay, though as per allegations, it was a case of version and cross-version. As initially, the complaint was filed on 6.9.2008 against Piara Singh and five other accused persons only, except Balihar Singh son of Ajit Singh, learned Courts below have rightly rejected the application for his summoning as an additional accused on an application filed under Section 319 Cr.P.C. and there is absolutely no ground for interference in the said orders.

6. Resultantly, there is no merit in the present petition and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 17, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes