

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

**CRM No.M-4953 of 2016 (O&M)
Date of Decision: January 22, 2019**

Gurnam Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.G.S.Bhatia, Advocate
for the petitioner.

Mr.Dhruv Dayal, DAG, Punjab
for the respondent-State.

Mr.Jatinder Pal Singh Smagh, Advocate
for co-accused Bakshish Singh.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Punjab for quashing of order dated 09.12.2015 passed by learned Judge, Special Court, Ferozepur, vide which the application filed under Section 319 Cr.P.C. has been allowed and the petitioner has been summoned as additional accused.

Notice of motion was issued. Learned State counsel as well as learned counsel for co-accused Bakshish Singh appeared and contested the petition.

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

From the record, I find that in the present case, challan has been presented against Bakshish Singh in case FIR No.190 dated 05.10.2012 by the police of Police Station Guruharsahai. During the pendency of the trial, after examination of witness ASI Pawan Kumar, an application under Section 319 Cr.P.C. has been filed by accused Bakshish Singh for summoning petitioner Gurnam Singh as additional accused in the present case. It is stated in the application that as per prosecution story, two persons were apprehended while they were coming on a motorcycle. Accused Bakshish Singh was pillion rider and motorcycle was being driven by Gurnam Singh. During the course of investigation, Gurnam Singh was found to be innocent and his name was put in column No.2 of the report under Section 173 Cr.P.C. It is also stated in the application that Gurnam Singh was apprehended on the spot and documents regarding arrest have also been prepared. ASI Pawan Kumar has also deposed regarding indulgence of both Gurnam Singh and Bakshish Singh.

Learned trial Court, after going through the evidence and after hearing learned counsel for the accused, summoned present petitioner Gurnam Singh.

The perusal of the record shows that admittedly, Gurnam Singh and Bakshish Singh were apprehended on the motorcycle. As per prosecution version, a bag was carried by Bakshish Singh from which 2 kgs. of opium was recovered. Memos regarding arrest of Gurnam Singh and Bakshish Singh were prepared. Their consent and non-consent memos were also prepared which bear their signatures. An enquiry was conducted and on the basis of some statements of the villagers, Inquiry Officer shown Gurnam Singh as pillion rider, which is contradictory to the prosecution case.

Motorcycle is owned by Bakshish Singh.

The Court below after discussing the evidence on record and the documents relied upon by the prosecution, summoned present petitioner Gurnam Singh. The impugned order dated 09.12.2015 is correct, as per evidence and law. In no way, it can be held that any illegality has been committed while summoning the petitioner as additional accused to face trial along with co-accused Bakshish Singh, who has been challaned. The standard of proof for summoning additional accused is somewhat more than prima facie case. The prosecution witness ASI Pawan Kumar has deposed regarding present petitioner which is supported by documents on record, which means that there is more than prima facie case against the present petitioner. The Hon' ble Supreme Court in ***Bholu Ram vs. State of Punjab and another, 2008(4) RCR (Crl.) 187*** has held that accused can be summoned under Section 319 Cr.P.C. on the application filed by the co-accused.

In view of the above discussion, I find that the impugned order dated 09.12.2015 passed by learned Judge, Special Court, Ferozepur, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

January 22, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No