

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-1933-2017

Date of Decision:05.07.2019

Gagandeep Goyal

...Petitioner

Versus

State of Punjab and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.D.S.Malwai, Advocate for the petitioner.
Mr.SPS Tinna, Addl. Advocate General, Punjab.
Mr.R.S.Budhwar, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

Petitioner-Gagandeep Goyal is in the revision petition challenging the order dated 12.04.2017 passed by the learned Sessions Judge, Bathinda, through which the petitioner has been summoned as an additional accused, while exercising powers under Section 319 of the Code of Criminal Procedure ('Cr.P.C.' for short).

Some facts are required to be noticed. Late Shri Sohan Lal, son of the complainant Gurmail Singh, who was working as Assistant Manager in State Bank of Patiala, Branch Rampura Phul had committed suicide leaving behind a suicide note in which allegations of harassment were made against two senior officials of the above-said employer Bank namely GM P.C.Singla and DGM Gokul Sharma.

On the basis of suicide note and the complaint, FIR No.24 dated 23.03.2015 under Section 306 of the Indian Penal code was registered. After investigation, challan was presented and the charges were framed. The complainant Gurmail Singh, father of the deceased, appeared

as PW-2 on 14.02.2017 and introduced the story for the first time that these two senior officials of the bank named above had been harassing the deceased at the behest of Gagandeep Goyal-petitioner, who is stated to be running a shop in Grain Market at Rampura.

On this solitary statement, Gurmail Singh, complainant, through public prosecutor filed an application under Section 319 Cr.P.C. which has been allowed by the trial court. In the application, only allegations are in para 3 and 4 thereof, which are extracted as under:-

“That while going through the deposition of Gurmail Singh complainant it appears from his evidence that a person namely Gagandeep Goyal son of Jaswant Rai Balloh of Goyal Trading Co. having shop no.29, Grain Market, Patiala Madni, Rampura Phul, has also played an active role in connivance with other accused persons, who have already facing trial

That as such, there is prima facie case against Gagandeep Goyal and is sufficient evidence on file to summon Gagandeep Goyal as an additional accused.”

It is apparent that there is not even assertion that Gurmail Singh had in fact levelled allegations against Gagandeep Goyal-petitioner but the police did not record correctly.

Learned counsel appearing for the State, on instructions from Deshpal Singh, HC, has admitted that during the investigation the complainant never named Gagandeep Goyal-petitioner.

It is apparent from the reading of the order passed by the learned Sessions Judge that merely on the statement of PW-2-Gurmail Singh which has been recorded on 14.02.2017, although son of the petitioner had committed suicide in March 2015 and FIR was registered on 23.03.2015, petitioner has been summoned.

The order passed is erroneous. The power under Section 319 Cr.P.C. can be exercised by the court only after finding that more than *prima facie* case as laid down by the Constitution Bench of the Hon'ble the Supreme Court in **Hardeep Singh v. State of Punjab & others, 2014 (1) RCR (Cr1.) 623.**

Learned trial court should have been conscious of the fact that summoning as additional accused is a serious matter and, therefore, the court ought to have been more vigilant while passing the order.

In view of the above, the order under challenge is set aside. The criminal revision petition is allowed.

05.07.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No