

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 3082 of 2018 (O&M)

Date of Decision: 10.09.2019

Gagandeep Mehta

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Shekhar Kumar, Advocate
for the petitioner(s).

Mr. Pawan Sharda, Senior Deputy Advocate
General, Punjab for the respondent.

Shekher Dhawan, J.

Present revision petition against order dated 20.07.2018, passed by the learned Judge, Special Court, Mansa on an application under Section 319 Cr.P.C., filed by the prosecution, to summon petitioner-Gagandeep Mehta as an additional accused.

Learned counsel for the petitioner contended that allegations against the petitioner were thoroughly probed by the Superintendent of Police (Investigation), Mansa and detailed inquiry was conducted into the matter. During investigation proceedings, statements of a number of witnesses were recorded including the statement of the Investigating Officer and report was submitted that petitioner was not aware about the fact that Kuldeep Singh occupied intoxicating material in the car. As such, the petitioner was declared innocent. As per report, Kuldeep Singh was habitual offender as there were a number of criminal cases against him and the learned trial Judge passed the impugned while exercising powers under Section 319 Cr.P.C. to summon Gagandeep Mehta as an additional accused.

Learned counsel for the petitioner further contended that the

learned Court below has not considered the material which was before the Inquiry Officer and was discussed in the report and as such, the impugned order is liable to be set aside. On this point, reliance has been placed upon the judgment rendered by the Hon'ble Apex Court in ***Hardeep Singh v. State of Punjab and Others 2014(3) SCC 92***, wherein it was observed that after commitment of the case, cognizance of an offence can be taken against the person not named as an accused, but against whom materials are available from the papers filed by the police officer after completion of the investigation. On the same point, reliance has also been placed upon the judgment rendered by the Hon'ble Apex Court in ***Brijendra Singh and Others v. State of Rajasthan 2017(3) RCR (Criminal) 374***.

Learned counsel for the respondent-State contended that the learned trial Judge has rightly exercised the powers vested in him under Section 319 Cr.P.C. and as such, present petition is liable to be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that after commitment of the case, the learned trial Judge is well empowered under Section 319 Cr.P.C. to appreciate the material available on file and to pass an order to summon any person as an additional accused. This Court has also gone through the judgment referred to and relied upon by learned counsel for the petitioner and for the reasons detailed hereafter, the said judgments are distinguishable on facts from the facts of the case in hand. At that stage, learned trial Judge is expected and required to look into the complete investigation having been done by the police including any inquiry having been conducted by any police officer or any other authority, but certainly the learned trial Judge is not bound by the findings recorded by the Inquiry Officer during investigation. Law on the point is settled that if during trial, the Court comes to the conclusion that there is some material available on the file so as to summon any person as an additional accused, the Court while exercising powers under Section 319 Cr.P.C. has got a right to summon the said person as an additional accused.

In the present case, the learned trial Judge has rightly observed

that Gagandeep Mehta was driving the car and the alleged recovery of 50 vials of corex and 50 strips of carisoma were recovered and at that time, Kuldeep Singh was also travelling the car bearing registration No. DL-9CJ-9535. That way, there was no ground for the Inquiry Officer to give a clean chit to Gagandeep Mehta as he was driving the car and the recovery of contraband material was in conscious possession of the petitioner as well. However, as the matter shall be before the learned trial Judge to examine and appreciate the evidence available on the file during trial and at this stage, the learned trial Court without making any observation on this point least that may not cause any prejudice to either of the parties of trial, this Court finds that the learned trial Judge has rightly exercised the powers lawfully vested in it under Section 319 Cr.P.C. and ordered to summon Gagandeep Mehta as an additional accused. As such, present revision petition is without any merits and the same stands dismissed.

(Shekher Dhawan)
Judge

September 10, 2019
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No