

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

**Criminal Misc. No.M-37194 of 2019 (O&M)
Date of Decision: October 15, 2019**

Jarnail Singh

.....PETITIONER(s).

VERSUS

State of Punjab and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rahul Arora, Advocate for
Mr. Raman Goklaney, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Petitioner Jarnail Singh son of Hakam Singh seeks quashing of order dated 17.07.2019 passed by the trial Court, whereby application of the petitioner under Section 319 Code of Criminal Procedure (for short-Cr.P.C.) for summoning respondents No.2 and 3 as additional accused, was dismissed.

The facts of the case were briefly discussed in para 6 of the impugned order, which is reproduced as follows:-

“6. In the present case, prosecution machinery has been set into motion on the basis of application of complainant Jarnail Singh Ex.P2 and application of complainant Daya Singh Ex.PW2/A. As per above applications, it is the case of both of the above complainants that Jarnail Singh induced them to send Harmesh Singh son of complainant Jarnail Singh and Jora Singh, nephew of complainant Daya Singh U.S.A.

for amount of Rs.14 Lac. Jarnail Singh, in his application Ex.P2 has averred that Rs.12 Lac was paid in advance and Rs.4 Lac was paid by them to Ranjit Kaur, mother of accused Jarnail Singh and Harinder Kaur, wife of accused Jarnail Singh at their house upon asking of Jarnail Singh. Similarly, Daya Singh has averred in his application Ex.PW2/A that he paid Rs.8 Lac in advance and remaining amount of Rs.6 Lac was paid by them to Ranjit Kaur, mother of accused Jarnail Singh and Harinder Kaur, wife of accused Jarnail Singh at their house, upon asking of Jarnail Singh.”

In view of above allegations, learned trial Court observed “So, *as per above applications, allegations regarding inducement are only against accused Jarnail Singh and payment to Ranjit Kaur and Harinder Kaur have been made only upon asking of said accused Jarnail Singh. As per above applications, it cannot be inferred that amount was paid to Ranjit Kaur or Harinder Kaur on their instance.*”

The petitioner sought summoning of Ranjit Kaur and Harinder Kaur as additional accused on the ground that part of the amount settled with Jarnail Singh for sending his son and nephew abroad, was paid to respondents No.2 and 3, who also assured that main accused Jarnail Singh had already sent several persons abroad. While dismissing the application, learned trial Court perused the applications and statements earlier made by petitioner and his witnesses, where the above fact nowhere finds mention. Taking note of this, it was observed in para 8 of the impugned order as follows:-

“8. Further as discussed above, above fact of alleged assurance given by Ranjit Kaur and Harinder

Kaur is not mentioned in application Ex.P2 and Ex.PW2/A. Statement of above Daya Singh U/S 161 Cr.P.C. Ex.P4 and statement of above Gurmej Singh Ex.P5 are also there on record and alleged fact of assurance given by Ranjit Kaur and Harinder Kaur is not mentioned by them at the time of recording above statements.”

The complaint has been filed by the petitioner for the offence punishable under Section 420 of Indian Penal Code and learned trial Court did not find any evidence of inducement on the part of respondents No.2 and 3 for the alleged payment made to Jarnail Singh son of Kala Singh or to him through respondents No.2 and 3.

The question, which arises for consideration, is as to whether the receipt of part of the settlement amount by Jarnail Singh through his wife and mother, make them co-accused with him?

Learned trial Court, on perusal of entire evidence on file, has rightly negated the above contention of learned counsel for the petitioner, while observing that there was no inducement on the part of these respondents so as to initiate criminal proceedings against them as per provisions of Section 319 Cr.P.C.

On perusal of the impugned order, I do not find the same against the provisions of law or facts of the case, calling for any interference in this petition, which has no merits.

Dismissed.

October 15, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No