

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

CRR No. 3759 of 2018 (O&M)

Date of Decision: 30.11.2021

Jaswant Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. D.N. Ganeriwala, Advocate
for the petitioner.

Ms. Samina Dhir, Deputy Advocate General, Punjab

Mr. Amaninder Singh Sekhon, Advocate
for the complainant.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner – Jaswant Singh is aggrieved from an affirmative order of 10.08.2018, as, made by the learned Additional Sessions Judge, Faridkot, upon the learned Public Prosecutor's application, cast under Section 319 Cr.P.C. Through the afore made order, the learned Additional Sessions Judge concerned, proceeded to array, alongwith the accused already facing trial, for the commission of an offence, carried in Section 302, of the IPC, hence also the accused-petitioner herein.

2. The learned counsel appearing, for the aggrieved petitioner, has contended with much vigour, before this Court, that the impugned order, has been drawn, rather, in a hot, haste, and, slipshod manner, inasmuch as reliance has been placed, only upon the testimony, as carried in the examination-in-chief of one Iqbal Singh, and, that without waiting, for the conclusion of the completest recording, of the testification of Iqbal Singh,

inasmuch as without his cross-examination being completed, at the time of

making of the impugned order, the learned trial Judge concerned, has proceeded to make the impugned order.

3. Prima facie, the afore made ground appears to carry immense legal sanctity, as a complete, and, wholesome reading of the testification of PW-Iqbal Singh, comprised also in his cross-examination, which became recorded subsequently on 05.10.2021, rather reveals, that the latter has belied his deposition, as, comprised in his examination-in-chief, wherein, he had made an attribution of an incriminatory role, in offence(s) (supra), even to Jaswant Singh, inasmuch as, his stating therein, that he made two statements, naming Jaswant Singh, as an accused, whereas, upon his stepping into the witness box, for facing cross-examination, upon his being confronted with his two statements, hence therein rather not existing the name of Jaswant Singh. Therefore, the drawing of the impugned order, by the learned trial Judge concerned, even prior to the afore Iqbal Singh, stepping into the witness box, for his facing cross-examination, from the learned defence counsel, does, prima facie, appears to be made in a hot haste and, slipshod manner.

4. Be that as it may, if the afore drawn conclusion, as, made on the basis of a wholesome analysis of the testification of Iqbal Singh, is completely tenable and weighty, thereupon, the impugned order may warrant interference.

5. However, the afore deposition of Iqbal Singh, is not the only incriminatory piece of evidence, rather suggestive of the inculpable participation of the petitioner herein, in offences (supra). The other incriminatory evidence against Jaswant Singh, became comprised, also in

his rather making an extra judicial confession, before Safdarpal Singh, and, also, in hence upon his being arrested by the Investigating Officer, his making a disclosure statement before him, on 29.04.2017, in pursuance whereof, he ensured the effectuation of recovery, at his instance, to the Investigating Officer concerned, of the motorcycle bearing Registration No. PB-03L-2746. The afore recovered motorcycle at the instance of the accused, by the IO, was allegedly used in the commission of offence (supra) by the accused concerned.

6. The learned counsel appearing for the petitioner, has contended with much vigour before this Court, that no reliance can be made, upon the afore extra judicial confession nor any reliance can be placed, at this stage, upon the disclosure statement, as, made on 29.04.2017, by Jaswant Singh, nor, thereafter, even upon recovery, at his instance, by the IO concerned, of the afore motorcycle, as became allegedly used in the commission of offence, as all the afore were belated endeavours. Moreover, he submits that the non-naming of the accused, in the report filed under Section 173 Cr.P.C. does also add weight(s) to his afore address. However, any exoneration of the guilt of the petitioner herein, by the IO, through his excluding him, from the array of accused, in the report prepared and filed by him, under Section 173 Cr.P.C., before the learned Committal Magistrate concerned, is completely effaced, by the afore alluded factum probandum, as, thereons, at this stage, rather his valid signatures are carried. However, if the afore incriminatory pieces of evidence(s) are unworthy of credence given theirs, being respectively belatedly made or collected, as the case may be, thereupon the only remedy available to the accused-petitioner herein, is

to disrobe them of their evidentiary worth, through his defence counsel conducting an efficacious cross-examination, upon, the prosecution witnesses concerned, and, also upon the Investigating Officer concerned.

6. In view of the above, there is no merit in the instant petition, and the same is hereby dismissed.

7. Pending application(s), if any, stand(s) disposed of.

November 30, 2021

**(SURESHWAR THAKUR)
JUDGE**

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<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>