

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

**CRR-1189-2022 (O&M)
DECIDED ON:31st AUGUST, 2022**

PALWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CRR-1387-2022 (O&M)

SEWAK SINGH @ SAHU @ GURSEWAK SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

**Present: Mr. Ankit Bishnoi, Advocate
for the petitioner (in CRR-1189-2022).**

**Mr. Angraze Singh Dhindsa, Advocate
for the petitioner (in CRR-1387-2022)**

Mr. Rajiv Verma, DAG, Punjab.

**Mr. G.S. Ghuman, Advocate and
Mr. P.S. Mann, Advocate
for the complainant.**

SANDEEP MOUDGIL, J

CRM-20734-2022 in CRR-1189-2022

Application is allowed, as prayed for.

CRR-1189-2022 (O&M) and CRR-1387-2022 (O&M)

Vide this common order, I intend to dispose of the afore-said two revision petitions, as they have arisen out of the same order.

The instant revision petitions have been filed being aggrieved of the order dated 24.03.2022 passed by learned Additional Sessions Judge, Patiala allowing application under Section 319 Cr.P.C. Palwinder Singh (petitioner in CRR-1189-2022) and Sewak Singh @ Sahu @ Gursewak Singh (petitioner in CRR-1387-2022) are summoned as additional accused to face trial under Sections 302, 201 and 120-B IPC in FIR No. 56, dated 02.05.2016 registered at Police Station Sadar, Samana.

The facts, in brief, are that initially the case was registered against some un-known persons and subsequently after investigation by the SIT one person namely Vishav Aman Singh @ Aman was nominated as the main accused. Supplementary challan was also filed. Charges were framed.

Learned counsel for the petitioner contends that the impugned order is erroneous, except Vishav Aman Singh aforesaid, the name of the petitioner does not find mentioned in the complaint made by the complainant. Initially DDR was recorded on the statement of Manjoor Singh, with regard to Scorpio car of the deceased having fallen into Bakhra Canal as a result of which Hazur Singh and Gurpreet Singh allegedly died. Statement under Section 174 Cr.P.C. of Manjoor Singh was got recorded on 20.04.2016. Thereafter, he made a statement on 04.05.2016. On the said date, statement of Sukhjit Kaur was also recorded in her statement, she did nowhere mention the names of the petitioners. As per the complainant, Vishav Aman allegedly administered sedative in the Coca Cola and taking the benefit of drowsiness, he drove the Scorpio in which the deceased were sitting in an unconscious

condition. Even, the main accused Vishav Aman, while making statement before the SIT, nowhere mentioned the involvement of any other person in the commission of crime.

The SIT while presenting the challan had exonerated the accused who were nominated in the complaint by taking the plea of alibi and clearly mentioned that those alleged accused were not present at the spot of alleged incident. Later on the police has reversed its own findings and presented supplementary challan mentioning the name of the petitioners.

The learned trial Court has also ignored the aspect that the deceased was a police officer and accused are private people.

Learned State counsel as well as counsel for the complainant while defending the impugned order, vehemently argue that blank cheques were allegedly given by Palwinder Singh and there was an agreement executed by Palwinder Singh in favour of complainant's son Gurpreet Singh on 30.08.2013 qua the sale of two tippers. The said agreement was witnessed by Vishav Aman Singh and Sukhjinder Singh @ Laddi. Vishav Aman Singh introduced Sewak Singh @ Sahu @ Gursewak Singh and Palwinder Singh to Gurpreet Singh. They had also taken loans from Gurpreet Singh from time to time. Sewak Singh @ Sahu @ Gursewak Singh and Palwinder Singh are also involved in other cases of similar nature. Therefore, they pray for the dismissal of present petition.

The Apex Court in **Hardeep Singh vs. State of Punjab and others; (2014) 3 SCC 92**, held that the efforts under Section 319 Cr.P.C. is to ensure that real perpetrator does not get away unpunished, further that it is part of fair trial and in order to achieve this very end, this Section was incorporated.

The Court has to proceed to find the truth so that innocent does not get

punished but in the same time guilty is brought to the books under the law.

There is a distinction between the person discharged and the person who was not charge-sheeted or investigated. The Court is empowered to summon the person ,not subjected to investigation or, placed in Column No.2 of charge-sheet or against whom cognizance is not taken.

The Court, after satisfying itself from the statement made and the evidence led, is of the considered view that a *prima facie* case is made out against the petitioner(s), as such the trial Court has rightly passed the impugned order. Apposite to mention that the complainant has specifically stated in her testimony that blank cheques were given by Palwinder Singh and the agreement was also executed by Palwinder Singh in favour of her son on 30.08.2013. Further, Sewak Singh @ Sahu @ Gursewak Singh and Palwinder Singh also took loans from her son. Moreover, Sewak Singh @ Sahu @ Gursewak Singh had refused to undergo the lie detection test to be conducted on 24.01.2017.

In view of discussions made hereinabove, no case is made out for interference in the impugned order dated 24.03.2022 passed by learned Additional Sessions Judge, Patiala. No merits.

Dismissed.

A copy of this order be placed on the file of another connected petition.

(SANDEEP MOUDGIL)
JUDGE

31st AUGUST, 2022
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>