

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CRM-35547-2021 in/&
CRR-1283-2021
Date of Decision :01.02.2022

Palwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Piyush Sharma, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Bikramjeet Singh Sidhu, Advocate
for complainant/respondent No.2.

Harsimran Singh Sethi, J. (Oral)

In the present petition, the challenge is to order dated 19.08.2021 passed by the learned Additional Sessions Judge, Ferozepur on an application filed by the prosecution under Section 319 of the Cr.P.C, by which, the petitioner has been summoned to face trial as an additional accused.

Learned counsel for the petitioner argues that the impugned order, which has been passed by the trial Court suffers from various infirmities. It has been pointed out by the learned counsel for the petitioner that Palwinder Singh s/o Mehtab Singh is already facing trial and the said

fact has totally been ignored by the Court below while passing the impugned order. Learned counsel for the petitioner points out that even in the statement of the injured namely, Natha Singh, it has been mentioned that Palwinder Singh fired a shot from his .12 bore gun, which hit the upper side of his left foot and the said Palwinder Singh was also identified by the said injured Nahta Singh and as Palwinder Singh, who is a son of Mehtab Singh is already facing trial and was present in the Court when identified by Natha Singh, summoning the petitioner, Palwinder Singh s/o Shubeg Singh as an additional accused to face trial on the basis of the said statement, is without any application of mind.

Learned counsel appearing for the complainant/respondent No.2 submits that in fact, Palwinder Singh, who has been described in the FIR and later on in the statement of the injured, Natha Singh is Palwinder Singh s/o Shubeg Singh i.e. the petitioner and not Palwinder Singh s/o Mehtab Singh and, therefore, the petitioner has rightly been summoned by the Court below by allowing an application filed by the prosecution under Section 319 of the Cr.P.C to face trial as an additional accused.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The theory, which is being presented before this Court is that there are two Palwinder Singh i.e. Palwinder Singh s/o Mehtab Singh and Palwinder Singh s/o Shubeg Singh, who are involved in the present case. Palwinder Singh s/o Mehtab Singh is already facing trial after being charged but, there is no mention of petitioner i.e. Palwinder Singh s/o Shubeg Singh in the challan presented by the Investigating Agency and no charges have

been framed against him. Rather this Court has been informed that the petitioner was found innocent by the Investigating Agency during the investigation and Palwinder Singh s/o Mehtab Singh was found actually involved, who was not only challaned by the Investigating Agency but was charged by the competent Court of law and is already facing trial. Impugned order dated 19.08.2021, which has been passed by the Court below summoning the petitioner i.e. Palwinder Singh s/o Shubeg Singh to face trial as an additional accused, does not record or deal with the said fact as to whether there are two persons with the same name i.e. Palwinder Singh, who have been arraigned in the present case and that the statement of the prosecution witness No.5 i.e. injured Natha Singh relates to Palwinder Singh s/o Shubeg Singh i.e. the petitioner and not to Palwinder Singh s/o Mehtab Singh. In the impugned order passed by the Court below, this relevant fact has not been taken into consideration, which is necessary to be considered before summoning the accused to face trial as an additional accused.

Keeping in view the above, as the relevant facts, which have been stated before this Court as recorded hereinbefore, have not been taken into consideration by the Court below while passing the impugned order dated 19.08.2021, same is held to be perverse in nature.

At this stage, learned counsels appearing for the parties submits that they have no objection in case the impugned order dated 19.08.2021 passed by the learned Additional Sessions Judge, Ferozepur is set aside and case is remanded back to the Court below to decide the application filed by the prosecution under Section 319 of the Cr.P.C afresh by taking into

consideration all the relevant facts, including the facts which have been detailed in the present order.

Keeping in view the above, as agreed between the learned counsel appearing for the parties, order dated 19.08.2021 passed by the learned Additional Sessions Judge, Ferozepur is set aside. The Court below is directed to decide the application filed by the prosecution under Section 319 of the Cr.P.C afresh in accordance with law by taking into consideration all the relevant facts,

The present petition stands allowed in above terms.

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Keeping in view the order passed in the main petition, no orders are required to be passed in the present application and the same is disposed of accordingly.

February 01, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No