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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-7202-2022 (O&M)

Date of decision: 19.09.2023

Prabhleen Kaur

....Petitioner

versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr.Ankur Bansal, Advocate for petitioner.

Mr. Mohit Thakur, AAG, Punjab.

Mr. H.S.Oberoi, Advocate for respondent no.2.

ARUN MONGA, J. (ORAL)

Present petition has been filed under Section 482 Code of Criminal Procedure for quashing of impugned order dated 07.01.2022 (Annexure P-1) passed by the Judicial Magistrate First Class, Jalandhar, whereby petitioner has been summoned to face trial under Section 319 Cr.P.C. as an additional accused in a complaint case No.CHI/89145 of 2013 arising out of FIR No.53, dated 15.03.2011, registered under Section 408 IPC, at Police Station Navi Baradari, Jalandhar.

2. The matter was heard by a co-ordinate Bench of this Court on 08.08.2022 and the following order was passed giving brief facts of the case:-

"This petition was filed seeking quashing of impugned order dated 07.01.2022 (Annexure P-1) passed in case No.CHI/89145 of 2013 arising out of FIR No.53 dated 15.03.2011, registered under Section 408 IPC at Police Station Navi Baradari, Jalandhar, whereby the petitioner has been summoned to face trial under Section 319 Cr.P.C. as additional accused in the case.

Brief facts of the case are that FIR was registered at the instance of Nitin Kalra-authorized representative of Shalimar Enterprises alleging that mobile phones were sold to M/s Jagdambey Mobi Linkers but the payments were not made. The challan was presented against Anterpreet Singh. On the basis of the deposition of the complainant, an application under Section 319 Cr.P.C was filed for summoning the petitioner as additional accused. The application was allowed on 14.3.2017. The order was challenged before this Court and following order was passed on 24.9.2019:-

"Petitioner-Prabhleen Kaur has assailed the correctness and validity of order dated 14.03.2017 passed by the learned Judicial Magistrate 1st Class, Jalandhar, summoning her for committing an offence under Section 408 of the Indian Penal Code in

exercise of powers under Section 319 Cr.P.C. i.e. an additional accused.

Investigating Agency after carrying out the investigation, placed the name of the petitioner in column no.2. Thereafter, evidence of Nitin Kalra, PW3 was recorded in part and application under Section 319 Cr.P.C. was moved. From the reading of the statement of PW3-Nitin Kalra, it is apparent that Prabhleet Kaur-petitioner is alleged to have signed certain invoices and issued signed cheques. Apart therefrom, there are no allegations/assertions/averments with regard to role attributed to the petitioner-Prabhleen Kaur.

Learned Judicial Magistrate Ist Class passed the order merely impressed by the fact that she has signed certain invoices and cheques.

After arguing at some considerable length, counsel for the parties have arrived at a consensus. They have jointly made a statement that the order under challenge i.e. 14.03.2017 be set aside against the petitioner, summoning her as an additional accused with liberty to the prosecution to file a fresh application, if need be, at appropriate stage.

Disposed of accordingly."

Thereafter, another application was moved by accused/Anterpreet Singh for summoning Karan Malhotra stated to be the real proprietor of the M/s Jagdambey Mobi Linkers. The prosecution also moved an application for summoning the petitioner under Section 319 Cr.P.C. Both the applications were allowed and the present petition is filed aggrieved of summoning of the petitioner.

Learned counsel for respondent No.2 submits that they have no objection if the impugned order is set aside.

Learned State Counsel on a pointed query from the Court is not having instructions what were the changed circumstances for filing the second application under Section 319 Cr.P.C. He seeks time to argue.

Adjourned to 20th October, 2022.

Interim order to continue."

3. *Apropos* resumes hearing today learned counsel for respondent no.2/complainant submits that respondent no.2 does not wish to pursue the complaint against the petitioner and does not press any charges against her arising out of the incident in question which led to registration of FIR in question.

4. In the premise, no useful purpose would be served to continue with the proceedings under Section 319 Cr.P.C. preferred by the State, that too by way of second application, when an order dated 14.03.2017 passed by the trial Court upon an earlier application under Section 319 Cr.P.C. dated 02.11.2015 (Annexure P-11), allowing the summoning the petitioner as an additional accused, was set aside by a co-ordinate Bench of this Court and thereafter no further recourse was taken by the trial Court.

5. In the aforesaid premise, the petition is accepted and impugned order dated 07.01.2022 (Annexure P-1), is set aside and second application filed under Section 319

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Cr.P.C. filed by the State to summon the petitioner as an additional accused is hereby dismissed.

6. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

19.09.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No