

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

**CRR-4801-2016
DATE OF DECISION:-10.03.2023**

Krishan Kumar

...Petitioner.

Vs.

State of Haryana and others

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
for respondent No.1.

Mr. Sumit Goel, Sr. Advocate with
Mr. Shivam Kaushik, Advocate and
Mr. Aarush Neeraj Vaid, Advocate,
for respondents No.2 and 3.

Mr. S.K. Garg Nawana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate,
Mr. Nitin Sachdeva, Advocate and
Mr. Rajat Sheokand, Advocate,
for respondent No.4.

Mr. P.S. Mattewal, Advocate,
for respondent No.5.

HARKESH MANUJA, J. (ORAL)

By way of present criminal revision petition, challenge has been laid to an order dated 16.11.2016 (Annexure P-1) passed by the court of learned Additional Sessions Judge, Bhiwani, whereby, an application under Section 319 Cr.P.C., filed at the instance of the petitioner for the purpose of summoning private respondents as additional accused stand dismissed.

Learned counsel representing the private respondents submit that

in view of the latest exposition of law by Hon'ble the Supreme Court in ***“Sukhpal Singh Khaira vs. The State of Punjab”, 2023(1) SCC 289***, the present petition has been rendered infructuous as the trial stands concluded culminating into the conviction of the accused vide judgment dated 15.06.2018 passed by the trial court. Reference has been made to para 33 of ***Sukhpal Singh Khaira's*** (case) (supra) and the relevant portion thereof is reproduced hereunder:-

“For all the reasons stated above, we answer the questions referred as hereunder:-

*“I. Whether the trial court has the power under **Section 319** of CrPC for summoning additional accused when the trial with respect to other co- accused has ended and the judgment of conviction rendered on the same date before pronouncing the summoning order?*

*The power under **Section 319** of CrPC is to be invoked and exercised before the pronouncement of the order of sentence where there is a judgment of conviction of the accused. In the case of acquittal, the power should be exercised before the order of acquittal is pronounced. Hence, the summoning order has to precede the conclusion of trial by imposition of sentence in the case of conviction. If the order is passed on the same day, it will have to be examined on the facts and circumstances of each case and if such summoning order is passed either after the order of acquittal or imposing sentence in the case of conviction, the same will not be sustainable.”*

In view of the aforesaid proposition of law, the present petition has been rendered as infructuous as the trial in the present case already stands concluded, culminating into the conviction of the accused.

Disposed of accordingly.

10.03.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No