

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

CRM-M-45967-2019 (O&M)

Date of Decision: 28.02.2023

Manoj Kumar

.....*Petitioner**Versus*

State of Haryana and Ors.

.....*Respondents***CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.**

Present: Mr. Sukhdev Singh, Advocate for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J (ORAL)

The prayer in this petition is for quashing of order dated 31.05.2019 passed by the learned Additional Sessions Judge, Karnal (Annexure P-6) vide which the revision filed by the petitioner is dismissed and order dated 06.04.2017 (Annexure P-4) vide which application filed under Section 319 Cr. P.C. for summoning the respondent Nos.2 to 6 as additional accused in case FIR No.534 dated 30.09.2015 under Section 460 and 109 IPC added later on, registered at Police Station Gharaunda, District Karnal, was dismissed.

Learned counsel for the petitioner submits that the learned trial Court failed to appreciate the facts and circumstances of the case. There was sufficient evidence to summon respondent Nos.2 to 6 as additional accused. PW6-Manoj Kumar also made a statement before the trial Court that some persons were found doing recce of the premises where dead body of the deceased was found but none of the factors were taken into consideration by the learned trial Court while deciding the application.

Learned State counsel has opposed the submissions and submitted that main trial is already disposed of, in other words no trial is pending and hence, the additional accused cannot be now summoned and

tried.

Learned counsel for the petitioner has fairly admitted that trial has already been concluded but he has submitted that revision was pending before the conclusion of the trial, so, the additional accused proposed to be summoned can now be tried.

Heard.

As per allegations made by the complainant, the accused who are to be summoned as additional accused, were also present near the father of the complainant and were keeping eye upon the daily activities of the father of the complainant and were in constant touch on the mobile with the accused facing trial.

The learned Revisional Court has given definite finding that bald statement of PW8 Gagan Kumar, who first time in the Court named them as accused, could not be termed as evidence to be more than prima facie as exercised at the time of framing of charges. I am in full in agreement with the finding recorded by learned Additional Sessions Judge, Karnal. Now the trial is concluded. Additional accused cannot be summoned now.

I draw support from 'Harjinder Singh Vs. State of Haryana and Others', 2013 (1) RCR (Criminal) 1038', wherein prosecution moved an application under Section 319 Cr. P.C. to summon additional accused to face the trial and the same was dismissed. Revision was preferred. The trial Judge concluded the trial and the revision was dismissed *inter alia* on the ground that trial was concluded.

In the case in hand, no material evidence had been brought on record, to summon the additional accused.

As a sequel to the above, there is no illegality or infirmity in the above said order dated 31.05.2019 (Annexure P-6). Therefore, the present petition stands dismissed.

28.02.2023
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(GURBIR SINGH)
JUDGE

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