

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

(276)

CRM-M-61936-2018

Reserved on: 23.03.2023

Date of Decision: 27.03.2023

Pritam Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms.Aman Rani, Advocate, for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab.

Mr. P. S. Punia, Advocate, for respondent No.2.

None for respondent No.3.

HARKESH MANUJA, J.(ORAL)

By way of present petition filed under Section 482 Cr.P.C., challenge has been made to an order dated 05.09.2016 passed by the Court of JMIC, Ludhiana, whereby, an application filed at the instance of present petitioner/complainant invoking Section 319 Cr.P.C., seeking summoning of respondent No.2 as an additional accused has been dismissed.

The facts in the present case are that on a complaint made by present petitioner against respondent No.3, FIR No.51 dated 19.07.2014 was registered under Section 406 IPC, at Police Station Division No.3, Ludhiana City, District Ludhiana, with the allegations that respondent No.3 Navdeep Kaur, committed theft of Gold *Kadas* belonging to the wife of the complainant and later pledged those *Kadas* with Manappuram Gold Loan, Gaushala Road, Ludhiana, and obtained loan of approximately Rs.1 Lakh. Upon investigation, *challan* was filed against respondent No.3-Navdeep Kaur followed by framing

of charges for facing trial under Section 406 IPC. During trial, respondent No.2 namely Baljit Singh who happened to be Branch Manger of Manappuram Gold Loan, Gaushala Road, Ludhiana, from February 2013 onwards appeared as PW-2 in support of the prosecution and deposed that a loan of Rs.1,05,080/- was obtained by Navdeep kaur-respondent No.2 having pledged two gold bangles weighing 3.5 grams.

Surprisingly enough, based on the statement made by respondent No.2-Baljit Singh who appeared as prosecution witness as PW-2, an application under Section 319 Cr.P.C. came to be filed at the instance of petitioner/complainant for the purpose of summoning Baljit Singh himself as an additional accused in the same trial. The trial Court vide order dated 05.09.2016 dismissed the prayer made by the petitioner/complainant while recording that there was no evidence on record so as to suggest any involvement of Baljit Singh as regards any dishonest misappropriation of the bangles.

Learned counsel for the petitioner submits that the grant of loan in favour of petitioner by respondent No.2 without asking for ownership of bangles kept as security, directly points out towards the involvement of respondent No.2 in the present case and thus, was sufficient to summon him as an additional accused.

On the other hand, learned counsel for respondent No.2 submits that there is no cogent evidence available on the record of the trial Court which could raise any probable presumption regarding the complicity of respondent No.2 in the offence arising out of the FIR in question and thus, prays for dismissal of the present revision petition.

I have heard learned counsel for the parties and gone through the paper book.

As per settled law, no person can be summoned as an additional accused merely on the basis of apprehension. Summoning of an individual as an additional accused carries serious consequences and thus, the power under Section 319 Cr.P.C., has to be exercised based on strong and cogent evidence. The test that has to be applied is one which is more than *prima facie* case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction.

In the present case, a conjoin reading of statement of PW-2 Baljit Singh as well as FIR in question makes it apparent that no strong and cogent evidence is available on record to suggest the involvement of respondent No.2 as regards any misappropriation of bangles which were allegedly pledged by Navdeep Kaur having used the same for obtaining loan from Manappuram Gold Loan, Gaushala Road, Ludhiana. Mere fact that the respondent No.2 did not ask for original bills of the bangles kept as security by respondent No.3 while obtaining loan cannot be taken to be suggestive of his connivance with respondent No.3. In the absence of any iota of evidence pointing towards involvement of respondent No.2, I don't find any illegality or perversity in the impugned order passed by the trial Court which declined the prayer made by the petitioner for summoning respondent No.2 as an additional accused and thus, the same does not warrant any interference.

Accordingly, the present petition is dismissed.

(HARKESH MANUJA)
JUDGE

27.03.2023
anil

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