



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-889-2023 (O&M)
Date of order: 19.07.2024

Karanvir Singh Chhinna
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CRR-1050-2023 (O&M)

Bhushan Pal
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CRR-1634-2023 (O&M)

Adwin Seth
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. P.S. Ahluwalia, Advocate and
Mr. Keerat Dhillon, Advocate
for the petitioner(s) in CRR-883-2023).

Mr. Rahul Sharma, Advocate
for the petitioner(s) in CRR-1050-2023)

Mr. Karan Vir Singh Khehar, Advocate
for the petitioner(s) in CRR-1634-2023)

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Date	Police Station	Sections
7	15.5.2015	Vigilance Bureau, Bathinda	420, 467, 468, 471, 120-B IPC and 13(1)D read with Section 13(2) of the Prevention of Corruption Act, 1988.



This order shall dispose of three revision petitions i.e. CRR-889-23, CRR-1050-2023 and CRR-1634-2023, as the same have arisen out of common FIR and the question of law is involved in all the said revision petitions. However, for brevity, facts are being noticed from CRR-889-2023.

2. Challenging the summoning order dated 7.1.2023 passed by Special Judge, Mansa, whereby the petitioner has been summoned under Section 319 CrPC to face trial, the petitioner has come up before this Court by filing the present revision petition under Section 401 CrPC read with Section 482 CrPC.

3. Counsel for the petitioner submits that after filing the present revision petition, law has become crystal clear and there is no *res integra* in view of judgment passed by Hon'ble the Apex Court in **The State of Punjab Vs. Partap Singh Verka 2024 INSC 483**, wherein the Hon'ble Court held:-

“11. It is a well settled position of law that courts cannot take cognizance against any public servant for offences committed under Sections 7,11,13 & 15 of the P.C. Act, even on an application under section 319 of the CrPC, without first following the requirements of Section 19 of the P.C Act. Here, the correct procedure should have been for the prosecution to obtain sanction under Section 19 of the P.C Act from the appropriate Government, before formally moving an application before the Court under Section 319 of CrPC. In fact, the Trial Court too should have insisted on the prior sanction, which it did not. In absence of the sanction the entire procedure remains flawed. We are completely in agreement by the decision of the High Court and therefore are not inclined to interfere with the impugned order passed by the High Court and accordingly this appeal is hereby dismissed.”

4. In the present case, summons were issued in the absence of sanction, which was taken by the State after the summoning of petitioner by trial.

5. State's counsel submits that it is only irregularity and not illegality. If this Court sets aside the order that would not amount to discharge or absolving the accused at all and thus, State be permitted to file a fresh application under Section 319 CrPC for the reason that now, sanction has been obtained.

6. Given above, the present petitions are allowed and the impugned order dated 7.1.2023 is set aside with liberty to the State to file a fresh application under Section 319 CrPC/358 Bhartiya Nagarik Suraksha Sanhita, 2023 in accordance with law. It is clarified that in case any such application is filed within 60 days from today, the trial Court shall not raise any objection regarding the previous application or delay in filing

the fresh application. Counsel for the petitioner also submits that they would not have any prejudice to the same. It is further clarified that the steps which the prosecution have already taken for obtaining sanction shall not be taken as irregularity, whether the same are on Court’s asking or at its own by the State.

- 7. The petitions are allowed. Application(s), if any, shall stand disposed of.
- 8. Photocopy of this order be placed on the file of each connected case.

(ANOOP CHITKARA)
JUDGE

July 19, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No