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

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CRR-3546-2017
Reserved on: 05.02.2024
Date of Pronouncement: 26.02.2024

MAHIPAL -Petitioner

Versus

STATE OF HARYANA AND ANR. -Respondents

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Sanjiv Kumar Aggarwal, Advocate and
Mr. Tejas Bansal, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

Mr. Abhinav Singla, Advocate for
Mr. Amit Goyal, Advocate
for the respondent No.2.

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**KULDEEP TIWARI, J.**

1. Through the instant revision petition, the petitioner has assailed the verdict dated 01.09.2017, as passed by the learned Additional Sessions Judge, Sirsa, whereby, after allowing the statutory revision, as preferred by the complainant/respondent No.2 (now deceased and represented by his LR), the order dated 12.04.2017 passed by the learned Magistrate concerned, thereby dismissing application under Section 319 of the Cr.P.C. seeking summoning of the present petitioner as an additional accused, has been set aside and the petitioner has been summoned to face trial along with co-accused Dayaram for commission of offence punishable under Sections 420, 467, 468 and 471 of the IPC.

2. The learned counsel for the petitioner has challenged the judgment (supra), primarily on the ground that, the impugned summoning proceedings are tainted with a fundamental legal defect, as despite there being absolutely no case made out against the petitioner, based upon the evidence, as adduced before the learned trial Court concerned, yet he has erroneously been summoned to face trial. In fact, the application, as moved under Section 319 of the Cr.P.C, was nothing but a sheer abuse of the process of law.

**FACTUAL MATRIX**

3. The genesis of the prosecution case is embodied in a complaint instituted under Section 156(3) of the Cr.P.C. by the complainant/ respondent No.2, alleging therein that, on 07.09.2015, one Dayaram/co-accused had entered into an agreement to sell with him *qua* his land measuring 9 acres, situated in Village Kaluana, against a total sale consideration of Rs.1,35,00,000/-, out of which Rs.1,15,00,000/- was paid as earnest money. The said agreement to sell was duly witnessed by the present petitioner and one Baldev Singh. The date for execution and registration of sale deed was fixed as 20.09.2015 and the remaining amount was also decided to be paid on the said date. However, on the stipulated date, co-accused Dayaram did not come present for execution and registration of sale deed, as he had already, in collusion with the present petitioner, executed and registered a sale deed *qua* aforesaid land on 14.09.2015 in favour of one Gurmeet Singh. The further allegations, as levelled in the complaint (supra), pertain to forging of a receipt/writing regarding cancellation of agreement dated 07.09.2015 by the co-accused Dayaram and the present petitioner.

4. The allegations (supra) led the learned Magistrate concerned to, vide order dated 26.10.2015, send the complaint (supra) to the S.H.O., Police Station City Dabwali, for registration of case and investigation. Accordingly, an FIR No.340 dated 09.11.2015, under Sections 420, 467, 468, 471 and 506 of the IPC was registered at P.S. City Mandi Dabwali, District Sirsa, against co-accused Dayaram and the present petitioner. However, after completion of investigation, the Final Report under Section 173 Cr.P.C. was presented only against co-accused Dayaram, as the present petitioner was found innocent by the investigating officer. Resultantly, only co-accused Dayaram was subjected to face trial, through framing of charges against him on 09.11.2016.

5. What caused grievance to the complainant/respondent No.2, was the petitioner becoming declared innocent by the investigating officer and consequently, he was driven to institute an application under Section 319 of the Cr.P.C., thereby seeking summoning of the present petitioner as an additional accused. However, the learned Magistrate concerned, through drawing an order on 12.04.2017, had dismissed the said application with the observations that "*apart from the present petitioner, who is merely an attesting witness to the agreement to sell concerned, there is another attesting witness also, whom the complainant/respondent No.2 has chosen not to implead as an accused, meaning thereby, the complainant/ respondent No.2 is intentionally trying to rope him in this case*".

6. The dismissal order (supra) aggravated the grievance of the complainant/respondent No.2 and propelled him to institute a revision thereagainst before the learned Additional Sessions Judge, Sirsa, who allowed the revision petition and after setting aside the dismissal order

(supra), summoned the present petitioner to face trial along with co-accused Dayaram. What led the learned revisional court concerned to summon the present petitioner, was that, it drew an inference from the record that *"the present petitioner had actively participated with co-accused Dayaram in the commission of alleged offence"*.

7. Therefore, the petitioner, who is aggrieved from his summoning, is before this Court, through the instant revision petition.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER**

8. At the very outset, the learned counsel for the petitioner has argued that, apart from the impugned summoning order, even the basic order dated 26.10.2015, whereby, the learned trial Court concerned had sent the complaint under Section 156(3) to the S.H.O. concerned, and whereupon, the present FIR was registered, is also absolutely illegal and deserves to be set aside, inasmuch as, there was non-compliance of Section 154(1) and Section 154(3) of the Cr.P.C. To substantiate this argument, he has placed reliance upon judgment titled as ***"Mrs. Priyanka Srivastava V. State of U.P. & Others", 2015(2) R.C.R. (Criminal) 1034***, wherein, the Hon'ble Supreme Court has observed that "*There has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3).*"

10. The learned counsel for the petitioner has further argued that, despite the petitioner being declared innocent by the investigating officer, and, despite there being lack of any cogent evidence even remotely indicative of petitioner's complicity, yet the learned revisional court concerned has erred in summoning the petitioner, merely on a flimsy ground that the present petitioner had actively participated with co-accused

Dayaram in the commission of alleged offence. In fact, the petitioner was merely an attesting witnesses to the agreement to sell dated 07.09.2015 and there is not an iota of evidence available on record suggestive of any inference that either the petitioner was a beneficiary of the alleged fraud, or, he had conspired with the main accused Dayaram in commission of the alleged crime.

11. To lend vigour to his above made argument, the learned counsel for the petitioner has drawn attention of this Court towards the order dated 12.04.2017, wherein, the learned Magistrate concerned has recorded an observation *qua* the petitioner being tried to be intentionally roped in the present case by the complainant/respondent No.2.

12. The final argument, as raised by the learned counsel for the petitioner, is grooved in the factum that, the complainant/respondent No.2 had, in his cross-examination, made an indirect admission *qua* his entering into an agreement with Gurmeet Singh. Since no suit for specific performance was filed, therefore, the present FIR, which derives its origin from a purely civil dispute, has been deliberately camouflaged as a criminal litigation, just to blackmail the present petitioner.

**SUBMISSIONS OF LEARNED STATE COUNSEL, AND, LEARNED COUNSEL FOR THE COMPLAINANT/RESPONDENT NO.2**

13. *Per contra,* the learned State counsel, who is assisted by the learned counsel for the complainant/respondent No.2, has opposed the arguments made by the learned counsel for the petitioner. First of all, he has assailed the maintainability of the instant revision petition, on the ground that, there is no provision for maintaining a revision against a revisional order. Furthermore, by drawing attention of this Court towards the date of

purchase of stamp paper of the sale deed dated 14.09.2015, i.e. 03.09.2015, which is well prior to the date of execution of agreement to sell dated 07.09.2015, he has argued that since the petitioner was an attesting witness to the agreement to sell dated 07.09.2015, and, to the sale deed dated 14.09.2015, therefore, he was acting in conspiracy with co-accused Dayaram to defraud the complainant/respondent No.2. Accordingly, a prayer is made that the instant revision petition be dismissed, being devoid of merits.

**ANALYSIS**

14. Before embarking upon the process of evaluating the contentions raised by the learned counsels for the contesting litigants, and thereupon, penning down any opinion upon the validity of the impugned summoning order, it is deemed imperative to first capture an overview of some significant legal propositions.

15. The scope of Section 319 of the Cr.P.C. has been considered and enunciated by the Hon'ble Supreme Court and by this Court also, in a catena of judgments, whereupon, it has been held that, during the pendency of inquiry or trial, the trial Court has jurisdiction to proceed against a person for the offence, which he appears to have committed, if, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that such person, not being the accused, has committed any offence, for which he could be tried together with the accused, under Section 319(1) of the Cr.P.C.

16. The Hon'ble Supreme Court in ***"Sohan Lal vs State of Rajasthan", AIR 1990 SC 2158,*** while explaining the scope of Section 319 of the Cr.P.C., has held that, this Section empowers the trial Court to

proceed against a person, not being the accused, "**appearing to be guilty"** of an offence. The relevant extract of ***Sohan Lal's*** judgment is extracted hereinafter:-

> *"This section empowers the Court to proceed against persons not being the accused appearing to be guilty of offence. Sub-sections (1) and (2) of this section provide for a situation when a Court hearing a case against certain accused person finds from the evidence that some person or persons, other than the accused before it is or are also connected in this very offence or any connected offence; and it empowers the court to proceed against such person or persons for the offence which he or they appears or appear to have committed and issue process for the purpose. It provides that the cognizance against newly added accused is deemed to have been taken in the same manner in which cognizance was first taken of the offence against the earlier accused. It naturally deals with a matter arising from the course of the proceeding already initiated. The scope of the section is wide enough to include cases instituted on private complaint."*

17. Moreover, in ***"Hardeep Singh Vs. State of Punjab and Others"***, ***(2014) 1 RCR (Criminal) 623,*** the Constitution Bench of the Hon'ble Supreme Court has, besides making consideration *qua* the degree of satisfaction required to invoke the provisions of Section 319 of the Cr.P.C. to arraign an accused, also rendered an answer thereto. The relevant extract of this judgment is reproduced hereinafter:-

> *"85. Thus, in view of the above, we hold that power under Section 319 Cr.P.C. can be exercised at the stage of completion of examination in chief and court does not need to wait till the said evidence is tested on cross-examination for it is the satisfaction of the court which can be gathered from the reasons recorded by the court, in respect of complicity of some other person(s), not facing the trial in the offence.*
>
> *Q. (iv) What is the degree of satisfaction required for invoking the power under Section 319 Cr.P.C.?*

*86. Section 319(1) Cr.P.C. empowers the court to proceed against other persons who appear to be guilty of offence, though not an accused before the court.*

*The word "appear" means "clear to the comprehension", or a phrase near to, if not synonymous with "proved". It imparts a lesser degree of probability than proof.*

*87. In Pyare Lal Bhargava v. The State of Rajasthan, AIR 1963 Supreme Court 1094, a four-Judge Bench of this Court was concerned with the meaning of the word `appear'. The court held that the appropriate meaning of the word `appears' is `seems'. It imports a lesser degree of probability than proof. In Ram Singh & Ors. v. Ram Niwas & Anr., 2009(3) RCR (Criminal) 501 : 2009(4) Recent Apex Judgments (R.A.J.) 261 : (2009)14 SCC 25, a two-Judge Bench of this Court was again required to examine the importance of the word `appear' as appearing in the Section. The Court held that for the fulfillment of the condition that it appears to the court that a person had committed an offence, the court must satisfy itself about the existence of an exceptional circumstance enabling it to exercise an extraordinary jurisdiction. What is, therefore, necessary for the court is to arrive at a satisfaction that the evidence adduced on behalf of the prosecution, if unrebutted, may lead to conviction of the persons sought to be added as an accused in the case.*

*88. At the time of taking cognizance, the court has to see whether a prima facie case is made out to proceed against the accused. Under Section 319 Cr.P.C., though the test of prima facie case is the same, the degree of satisfaction that is required is much stricter. A two-Judge Bench of this Court in Vikas v. State of Rajasthan, 2013(4) RCR (Criminal) 948 : 2013(6) Recent Apex Judgments (R.A.J.) 356 : 2013(11) SCALE 23, held that on the objective satisfaction of the court a person may be `arrested' or `summoned', as the circumstances of the case may require, if it appears from the evidence that any such person not being the accused has committed an offence for which such person could be tried together with the already arraigned accused persons.*

*89. In Rajendra Singh (Supra), the Court observed :*

*"Be it noted, the court need not be satisfied that he has*

*committed an offence. It need only appear to it that he has committed an offence. In other words, from the evidence it need only appear to it that someone else has committed an offence, to exercise jurisdiction under Section 319 of the Code. Even then, it has a discretion not to proceed, since the expression used is "may" and not "shall". The legislature apparently wanted to leave that discretion to the trial court so as to enable it to exercise its jurisdiction under this section. The expression "appears" indicates an application of mind by the court to the evidence that has come before it and then taking a decision to proceed under Section 319 of the Code or not."*

*90. In Mohd. Shafi (Supra), this Court held that it is evident that before a court exercises its discretionary jurisdiction in terms of Section 319 Cr.P.C., it must arrive at a satisfaction that there exists a possibility that the accused so summoned in all likelihood would be convicted.*

*91. In Sarabjit Singh & Anr. v. State of Punjab & Anr., 2009(3) RCR (Criminal) 388 : 2009(4) Recent Apex Judgments (R.A.J.) 144 , while explaining the scope of Section 319 Cr.P.C., a two-Judge Bench of this Court observed :*

*"....For the aforementioned purpose, the courts are required to apply stringent tests; one of the tests being whether evidence on record is such which would reasonably lead to conviction of the person sought to be summoned.....Whereas the test of prima facie case may be sufficient for taking cognizance of an offence at the stage of framing of charge, the court must be satisfied that there exists a strong suspicion. While framing charge in terms of Section 227 of the Code, the court must consider the entire materials on record to form an opinion that the evidence if unrebutted would lead to a judgment of conviction. Whether a higher standard be set up for the purpose of invoking the jurisdiction under Section 319 of the Code is the question. The answer to these questions should be rendered in the affirmative. Unless a higher standard for the purpose of forming an opinion to summon a person as an additional accused is laid down, the ingredients*

*thereof viz. (i) an extraordinary case, and (ii) a case for sparingly (sic sparing) exercise of jurisdiction, would not be satisfied." (Emphasis added)*

*92. In Brindaban Das & Ors. v. State of West Bengal, 2009(1) RCR (Criminal) 672 : 2009(1) Recent Apex Judgments (R.A.J.) 400 , a two-Judge Bench of this Court took a similar view observing that the court is required to consider whether such evidence would be sufficient to convict the person being summoned. Since issuance of summons under Section 319 Cr.P.C. entails a de novo trial and a large number of witnesses may have been examined and their re-examination could prejudice the prosecution and delay the trial, the trial court has to exercise such discretion with great care and perspicacity. A similar view has been re-iterated by this Court in Michael Machado & Anr. v. Central Bureau of Investigation & Ors., 2000(2) RCR (Criminal) 75 .*

*93. However, there is a series of cases wherein this Court while dealing with the provisions of Sections 227, 228, 239, 240, 241, 242 and 245 Cr.P.C., has consistently held that the court at the stage of framing of the charge has to apply its mind to the question whether or not there is any ground for presuming the commission of an offence by the accused. The court has to see as to whether the material brought on record reasonably connect the accused with the offence. Nothing more is required to be enquired into. While dealing with the aforesaid provisions, the test of prima facie case is to be applied. The Court has to find out whether the materials offered by the prosecution to be adduced as evidence are sufficient for the court to proceed against the accused further. (Vide: State of Karnataka v. L. Munishwamy & Ors., AIR 1977 Supreme Court 1489; All India Bank Officers' Confederation etc. v. Union of India & Ors., AIR 1989 Supreme Court 2045; Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia, (1989) 1 SCC 715; State of M.P. v. Dr. Krishna Chandra Saksena, 1997(1) RCR (Criminal) 556 : (1996) 11 SCC 439; and State of M.P. v. Mohan Lal Soni, 2000(3) RCR (Criminal) 452 ).*

*94. In Dilawar Babu Kurane v. State of Maharashtra, 2002(1) RCR (Criminal) 451, this Court while dealing with the provisions of Sections 227 and 228 Cr.P.C., placed a very heavy reliance on the* *earlier judgment of this Court in Union of India v. Prafulla Kumar Samal & Anr., AIR 1979 Supreme Court 366 and held that while considering the question of framing the charges, the court may weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out and whether the materials placed before this Court disclose grave suspicion against the accused which has not been properly explained. In such an eventuality, the court is justified in framing the charges and proceeding with the trial. The court has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but court should not make a roving enquiry into the pros and cons of the matter and weigh evidence as if it is conducting a trial.*

*95. In Suresh v. State of Maharashtra, 2001(2) RCR (Criminal) 278, this Court after taking note of the earlier judgments in Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya, 1991(1) RCR (Criminal) 89 and State of Maharashtra v. Priya Sharan Maharaj, 1997(2) RCR (Criminal) 634, held as under :*

> *"9.....at the stage of Sections 227 and 228 the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The Court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Therefore, at the stage of framing of the charge the Court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is not sufficient ground for proceeding against him and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction." (Emphasis supplied)*

*96. Similarly in State of Bihar v. Ramesh Singh, AIR 1977 Supreme Court 2018, while dealing with the issue, this Court held :*

> *".....If the evidence which the Prosecutor proposes to adduce*

*to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial......"*

*97. In Palanisamy Gounder & Anr. v. State, represented by Inspector of Police, 2006(2) RCR (Criminal) 235 : (2005) 12 SCC 327, this Court deprecated the practice of invoking the power under Section 319 Cr.P.C. just to conduct a fishing inquiry, as in that case, the trial court exercised that power just to find out the real truth, though there was no valid ground to proceed against the person summoned by the court.*

*98. Power under Section 319 Cr.P.C. is a discretionary and an extra- ordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.*

*99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. 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 absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if `it appears from the evidence that any person not being the accused has committed any offence' is clear from the words "for which such person could be tried together with the accused." The words used are not `for which such person could be convicted'. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.*

18. The hereinabove discussed legal propositions elucidate that

much stronger evidence, rather than mere probability of complicity and mere existence of *prima facie* case, is required to proceed against any person, under Section 319 of the Cr.P.C. It is now the settled proposition of law that, mere suspicion cannot constitute the bedrock for summoning of a person, in exercise of powers conferred by Section 319 of the Cr.P.C., rather exercise of this provision must be anchored upon existence of cogent evidence and not in a casual or cavalier manner. 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.

**<u>REASONS FOR DISMISSING THE INSTANT PETITION</u>**

19. Insofar as the issue of maintainability of the instant revision petition is concerned, it is undoubtedly true that the Code of Criminal Procedure does not endow any right or remedy to a litigant to maintain a second revision petition. In the instant case also, though the petitioner could have assailed the impugned revisional summoning order through invoking the provisions of Section 482 of the Cr.P.C., however, be that as it may, this Court is bestowed ample powers to treat the instant revision petition as a petition cast under Section 482 of the Cr.P.C. Consequently, the instant revision petition is being decided by treating it to be a petition under Section 482 of the Cr.P.C.

20. Now proceeding further, though the prime argument of the learned counsel for the petitioner relates to the basic order dated 26.10.2015 being grooved with absolute illegality, owing to infringement of Section 154(1) and Section 154(3) of the Cr.P.C., however, this argument is liable to be rejected, primarily on the ground that, the said order has not been

challenged before this Court. Therefore, when the petitioner has, since 2015 uptil today, chosen not to assail the validity of the order dated 26.10.2015, coupled with the fact that, pursuant to the registration of the present FIR, he had joined investigation and acquired exoneration, this Court refrains from making any observation *qua* validity of the order dated 26.10.2015.

21. Since the other arguments raised by the learned counsel for the petitioner are interconnected, therefore, they are being adjudicated together.

22. To the considered mind of this Court, the hereinafter extracted reasoning, as adopted by the learned Magistrate concerned, for exonerating the petitioner is factually incorrect.

> *"5. It is pertinent to mention here that person now sought to be summoned is attesting witness of the alleged agreement to sell and the sale deed in question. There is one other attesting witnesses of the above said agreement to sell and the sale deed in question but the complainant has not prayed for impleading him as accused along with Mahipal. Meaning thereby, the complainant is intentionally trying to rope him in this case."*

23. What has constrained this Court to negate the reasoning (supra) of the learned Magistrate concerned, is that, it emanates from the record that, though Baldev Singh was undoubtedly also an attesting witness along with the present petitioner, to the agreement to sell dated 07.09.2015, however, he was neither an attesting witness to the sale deed dated 14.09.2015, nor the alleged receipt/writing *qua* cancellation of agreement to sell dated 07.09.2015 bears his signatures.

24. The attesting witness Baldev Singh, while deposing as PW5, has proved the execution of the agreement to sell dated 07.09.2015, besides has verified the factum *qua* payment of Rs.1,15,00,000/- by the complainant as earnest money.

25. Now, insofar as culpability of the petitioner is concerned, who is a relative of co-accused Dayaram, the same gains substantiation from the testification of the complainant, who, while deposing as PW6, testified that pursuant to execution of the agreement to sell dated 07.09.2015 and receipt of earnest money, co-accused Dayaram did not execute the sale deed, rather he, with a *mala fide* intention to commit fraud and to conveniently escape the rigor of law, colluded with the present petitioner and forged a receipt/writing *qua* cancellation of the agreement to sell (supra).

26. Moreover, the *mala fide* intention of the co-accused Dayaram and the present petitioner could also be gauged from the testimony of PW4 Gurmeet Singh, in whose favour co-accused Dayaram had executed the sale deed dated 14.09.2015, inasmuch as, he specifically deposed that vendor/co-accused Dayaram had agreed to sell him his land 15 days prior to execution of sale deed (supra), whereupon, he had purchased the stamp paper for sale deed on 03.09.2015, i.e. prior to execution of the agreement to sell (supra) with the complainant. Therefore, the inference, as ensues from the testimony of PW4 Gurmeet Singh, is that, the co-accused Dayaram had, under a pre-planned conspiracy with the present petitioner, made the complainant a prey of his fraud.

27. Now, let's advert to the validity of the receipt/writing *qua* cancellation of agreement to sell dated 07.09.2015, which is allegedly forged and bears forged signatures of the complainant. During the course of investigation, the receipt/writing (supra) was sent to the F.S.L., Madhuban along with standard signatures of the complainant, and, as per the F.S.L. report, the receipt/writing (supra) does not bear the signatures of the complainant, rather it bears the signatures of present petitioner.

28. In view of the above, this Court does not have any hesitation to conclude that the reasoning adopted by the learned Magistrate concerned, thereby declining to summon the present petitioner, is incorrect and contrary to the evidence available on record. The evidence available on record is sufficient for summoning and subjecting the petitioner to face trial along with co-accused Dayaram, besides it also ably passes the test, as laid down by the Hon'ble Supreme Court, in ***Hardeep Singh's case (supra).***

**FINAL ORDER**

29. For all the reasons (supra), this Court does not find any illegality or perversity in the impugned summoning order and is constrained to dismiss the instant petition. Consequently, the instant revision petition is **dismissed,** and, the impugned summoning order dated 01.09.2017 is hereby affirmed and maintained.

30. It is clarified that the observations made hereinabove are only meant to evaluate the legality of the impugned order, as also to find out whether there is sufficient evidence for subjecting the petitioner to face trial, in pursuance of his summoning under Section 319 of the Cr.P.C. The learned trial Court shall not be influenced by any of the observations (supra), and, shall make its own independent final decision, after appreciation of the entire evidence, in accordance with law.

**(KULDEEP TIWARI)**
**JUDGE**

**26.02.2024**
**devinder**

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