

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2021-2024 (O&M)

Decided on 19.10.2024

Nasir Abbas

... Petitioner

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Mohd. Salim, Advocate for the petitioner

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the order dated 05.09.2024 passed by Addl. Sessions Judge, Faridabad whereby an application under Section 193 CrPC read with Section 319 CrPC filed by petitioner/complainant for summoning the respondent No.2 as an additional accused has been dismissed.

(2). The petitioner got lodged an FIR No.208 dated 19.04.2018 (Annexure P1) under Section 323/341/379-B/506/34 IPC, registered at Police Station Sadar Ballabgarh leveling allegation against main accused Saddam, Gulab and Pardeep, who are already facing trial since the year 2018. However, during investigation accused Nisar Ahmad was found innocent on the basis of the evidence, which was same as at the time of submitting challan was adduced before the trial Court. The trial court found no new facts that emerged against the accused.

(3). It has also been noticed in the impugned order that the statement of complainant Nasir Abbas was recorded in the year 2021 and the present application has been filed in the year 2023 and that apart, there is no other additional evidence on the record placed by the petitioner-complainant in order

to establish his raw assertion and to hold that Nasir Ahmad was actually and also involved in the occurrence.

(4). In the present case, the oral averment made by the petitioner that since the proposed accused Nisar Ahmed had grudge against the petitioner who initiated complaint against the proposed accused for committing corruption and embezzlement and it was for this reason that the petitioner alleged proposed accused's involvement in the subject FIR, cannot be said be material and fresh evidence on the basis of which petitioner's application under Section 319 CrPC can be entertained.

(5). It is well settled that the powers under Section 319 CrPC are exercisable only on the basis of fresh evidence brought before the court and mere suspicion is not sufficient to hold that there is reasonable prospect of convicting the proposed accused. In fact, judicial exercise can be undertaken also keeping in mind the stage at which the trial has proceeded and the quantum of evidence collected till then unless and until the Court satisfies itself with the basic requirement for invoking the said provision and based on the fresh evidence, if any, collected, it appears that an offence has been committed by the proposed accused. (Ref. **Lal Suraj @ Suraj Singh & Anr. State of Jharkhand 2009(1) RCR (Crl) 504**).

(6). In view of the above discussion, this Court does not find any material illegality or infirmity in the judgments and orders passed by the courts below.

(7). Dismissed.
19.10.2024
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No