

CRR-2570-2023 (O&M)
Decided on: 11.01.2024

Om Parkash Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ish puneet Singh, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2	11.01.2007	Vigilance Bureau, FS-1, Punjab at Mohali	409, 120-B IPC and 13(1)(d) r/w 13(2) of PC (Amendment) Act 1988

Aggrieved by the dismissal of application filed under Section 319 CrPC for summoning of Ajay Bhandari-respondent No.5, as additional accused, petitioner has come up before this Court by filing the present criminal revision petition under Section 401 CrPC.

2. The petitioner-Om Parkash Sharma along with one Kuldeep Singh were arraigned as accused and report under Section 173 Cr.P.C. was filed against them in the FIR captioned above and vide order dated 30.07.2013 (Annexure P-1), charges were framed against them for misappropriating paddy, valued at more than Rs.2 crores.
3. Wayback on 16.04.2014, respondent No.5-Ajay Bhandari had filed an application for summoning Sham Sunder (respondent No.3) and Sanjeev Kumar (respondent No.4) as co-accused. Vide a detailed order dated 03.06.2014 (Annexure P-3), Additional Sessions Judge, had ordered summoning of both the accused. After that another application was filed for summoning one A.K. Bhatia, the then General Manager (Procurement) and Kirpa Shankar Saroj, the then Managing Director, Punjab Agro Food Corporations, as additional accused. Vide a detailed order dated 21.09.2018, Special Judge, SAS Nagar (Mohali) dismissed the said application (Annexure P-4). Now other

accused Om Parkash has filed the present application dated 26.05.2023 to summon the Ajay Bhandari, as additional accused. Vide order dated 26.05.2023, Additional Sessions Judge adjourned the matter by observing "Question whether they are entitled to file and oppose the application will be decided after hearing the parties". Vide a detailed order dated 11.10.2023, Additional Sessions Judge dismissed the said application. Aggrieved by the said dismissal, said accused-Om Parkash has come up before this Court.

4. I have heard counsel for the petitioner for the purpose of issuing notice to the State of Punjab to ascertain whether it is a case for issuing notice to the State of Punjab. Ms. Swati Batra, DAG, Punjab had also put in appearance to accept notice in case this Court proceeds to issue notice to the State.

5. The application under Section 319 CrPC has been annexed as Annexure P-7. The grounds taken to arraign and summon Ajay Bhandari as additional accused are that he was owner No.2 of the sheller, premises belong to him and being leaser and guarantor, he is liable for misappropriation of bags. Petitioner's grievance is that despite being owner of the sheller, Ajay Bhandari is not arraigned as accused.

6. Perusal of the application reveals that it is cryptic as there is no specific allegation against respondent-Ajay Bhandari. Even if Ajay Bhandari was owner of Sheller or being guarantor, would not make him liable for any criminal misappropriation for which entrustment is required. There is no allegation of any such nature against Ajay Bhandari. Furthermore it was Ajay Bhandari on whose application two more persons were arraigned as accused in the present case. State counsel submits that the matter is at the fag end and application have been filed to delay the trial. I have find force in these submissions of State counsel.

7. Petitioner's next grievance is that while adjourning the matter on 26.05.2023, Additional Sessions Judge had observed that "whether they are entitled to file and oppose the application will be decided after hearing the parties" but the question is not answered and there is no such finding in the order. Perusal of the application filed u/s 319 Cr.P.C., there is no reason mentioned to implicate Ajay Bhandari as an accused. Further the applicant kept on waiting for more than a decade and at the fag end of trial, he proceeds to implicate Ajay Bhandari on a simple cause that he was owner of the property from where misappropriation was done. Even if it is hypothetically presumed that co-accused had right to file said application and the State had no right to oppose the said application. Still the petitioner could not point out a single evidence on the basis of which Ajay Bhandari can be summoned to face trial for commission of the

alleged offences. Even otherwise there is no illegality in the impugned order and same is well reasoned.

8. Petition dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

11.01.2024
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Whether speaking/reasoned:	Yes
Whether reportable:	No.