



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

115

CRM-M-35891-2017(O&M)

Rishab Asteer

... Petitioner

Versus

State of Punjab and another
115-2

... Respondent

CRM-M-41883-2017(O&M)

Pawan Chopra

... Petitioner

Versus

State of Punjab and another

... Respondent

Decided on : 11.08.2025

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Veneet Sharma, Advocate
for the petitioner
(in CRM-M-35891-2017).

Mr. Karanjit Singh, Advocate
for the petitioner
(in CRM-M-41883-2017).

Mr. Neeraj Madaan, Sr. DAG, Punjab.

Mr. Umesh Aggarwal, Advocate for respondent No.2.

SANJAY VASHISTH, J. (Oral)

1. By way of this order, both the aforementioned petitions are being disposed of.

2. Petitioners namely Rishab Asteer and Pawan Chopra have filed the aforementioned petitions under Section 482 Cr.P.C., seeking quashing of FIR No. 185 dated 06.05.2012 under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Civil Lines, Amritsar. They also challenge the order dated 15.06.2016 (P-6) whereby the petitioners were summoned under Section 319 Cr.P.C. by the Judicial Magistrate First Class, Amritsar (Trial Court); the order dated 04.07.2017 (P-8) dismissing their application for discharge; the order dated 17.07.2017 (P-9), whereby petitioners were



**CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)**

- 2 -

charged for the offence under Section 420 IPC; and the order dated 08.08.2017 (P-7), whereby the revisional Court maintained the order passed under Section 319 Cr.P.C., allowing the prayer to summon them as additional accused.

Before proceeding further, it is apt to note that since the registration of the FIR itself has been assailed, the challenge to all subsequent orders is also being examined in these petitions before this Court, by exercising its inherent power under Section 482 Cr.P.C.

3. Opening the arguments, counsel referred the FIR and submitted that initially, nothing was alleged by the complainant against the petitioners, except one accused, namely Gopi Kapoor. After submission of the complaint, an inquiry was conducted, during which, names of the petitioners also surfaced and subsequently, an FIR under Sections 420, 467, 468, 471 and 120-B IPC was registered.

4. As per the allegations, complainant-Sandeep Kakkar alleged that Rishab Asteer, being an employee of Tata AIG Company, informed him that the annual premium was due and the policies had lapsed, resulting in the loss of the amount invested. For paying the premium, complainant paid cash to accused-Gopi Kapoor, who in turn paid it to Tata AIG Company officials. Subsequently, AIG authorities in Amritsar informed the complainant that the receipts were fake, false, and carried no value. In fact, accused-Gopi Kapoor had paid the premium to Tata AIG in October 2011, whereas the payment was made to him in February 2011. After the FIR registration, an inquiry was conducted by the Assistant Commissioner of Police (North), and vide inquiry



**CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)**

- 3 -

report dated 26.06.2012, it was concluded that after examining the records of Tata AIG Insurance Company, none of the documents were found to be forged. Therefore, the offences under Sections 467, 468, and 471 IPC were deleted, and accused-Gopi Kapoor was arrested. The inquiry also revealed that accused-Rishab Asteer joined the company on 17.08.2011, and hence it was clear that he was not conniving with any person in taking the premium from complainant Dr. Sandeep Kakkar and his wife Monika Kakkar. Accordingly, accused Rishab Asteer was declared innocent and placed in Column No. 2 of the report under Section 173 Cr.P.C.

5. Mr. Vineet Sharma, Advocate for the petitioner in CRM-M-35891-2017, and Mr. Karanjit Singh, Advocate in CRM-M-41883-2017, refer to the cancellation report dated 04.12.2012 (P-3), stating that while submitting the challan, except for accused-Gopi Kapoor, both Rishab Asteer and Pawan Kumar were found innocent during the investigation, having played no role in the alleged cheating and fraud. Proceeding further, Mr. Vineet Sharma reads out the statement of Dr. Sandeep Kakkar (complainant), appearing as PW1, wherein he deposed that accused-Gopi Kapoor had arranged a call from his mobile to Rishab Asteer, Branch Manager, and Pawan Kumar, Cluster Manager, Tata AIG. Upon their request, the complainant gave Rs. 7 lac in cash to Gopi Kapoor so that he could secure the second installment deposit, and the amount was given to Gopi Kapoor in January 2011. The relevant part of the statement reads as under:

“.... Then the accused Gopi Kapoor got me to talk from his mobile to Rishab, Branch Manager and Pawan Chopra Cluster Head, TATAt AIG and on their asking, again said on the asking of Pawan



CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)

- 4 -

Chopra and Rishab Asteer. I gave Rs.7.00 lakhs in cash to Gopi Kapoor so that he can get the second installment deposited. I gave this amount in January, 2011. At that time Shri Suresh Gupta son of Ajay Gupta of Modern Chemicals, Harguru Teg Bahadur Hospital was also present. Then Gopi Kapoor told me that I shall deposit the money in your aforesaid policies and I shall give you the receipts for the same. After some days the accused Gopi Kapoor gave me receipts Ex.P-12 to P-20 regarding deposit of policies. I have seen the original receipts in the judicial file and the accused Gopi Kapoor told me that I shall give you the remaining receipts afterwards.”

6. Mr. Vineet Sharma, Advocate, argues that the statement dated 29.07.2015 is an improved version which is completely absent from the FIR as well as the final report submitted by the investigating agency. Still application filed under Section 319 Cr.P.C. was allowed by the impugned order dated 15.06.2016 (P-6), which observed as follows:

“4. Perusal of FIR reveals that after preliminary investigation the FIR was lodged against Gopi Kapoor, Rishab Asteer and Pawan Chopra. There are specific allegations regarding cheating and forgery of documents by all the abovesaid persons. PW-1 during the trial has also deposed on oath that all the accused cheated him and issued fake receipts for the deposit of insurance premium. From the evidence on record, I am of the opinion that there are sufficient grounds to summon Rishab Asteer and Pawan Chopra in this case as additional accused. Accordingly, present application is allowed. Accused Rishab Asteer Branch sales Manager and Pawan Chopra Cluster Head are ordered to be summoned for 03. 08.2016.”

Referring the order, it is argued that trial Court erred in seeing the allegation from FIR only whereas it required to find out the evidence on record, in support of allegations.

7. On assailing the said order before the Revisional Court,



CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)

- 5 -

summoning order under Section 319 Cr.P.C. was maintained, also by noticing that accused had already been charge-sheeted by the Trial Court. As indicated above, even the application for discharge was dismissed on 04.07.2017, and charges were framed on 17.07.2017, which has also been impugned through the instant petition.

8. Lastly, Mr. Vineet Sharma, Advocate, argues that since the operation of the impugned order, summoning the petitioners under Section 319 Cr.P.C, had been stayed by this Court vide order dated 25.09.2017, the trial against one accused, namely Gopi Kapoor, continued, and he has already been acquitted by the learned Trial Court vide judgment dated 18.12.2024. While acquitting the accused-Gopi Kapoor, Trial Court found that the alleged receipts did not even bear the signatures of Gopi Kapoor. The Court also observed that the statements of the witnesses did not inspire confidence to hold the challaned accused Gopi Kapoor guilty. In support of this contention, Mr. Vineet Sharma relies upon the judgment of the Hon'ble Apex Court in '**Vikas Rathi vs. State of U.P. and Another**'(Law Finder Doc Id #2147611).

Thus, it is argued that since the main accused, Gopi Kapoor, has already been acquitted and the allegations against the petitioners are inseparable, no purpose is served by keeping the proceedings pending against the petitioners. Furthermore, as there is no material to summon the petitioners under Section 319 Cr.P.C., and no fresh material exists on which they could have been charge-sheeted, all subsequent proceedings arising out of the impugned FIR deserve to be quashed.

9. To controvert the submissions, Mr. Neeraj Madaan, Senior Deputy



**CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)**

- 6 -

Advocate General, Punjab and Mr. Umesh Aggarwal, counsel for respondent No.2 vehemently argue that sufficient material is available on record and that petitioners cannot claim the benefit of the acquittal of the challaned accused, Gopi Kapoor. They contend that Gopi Kapoor was acquitted only after facing a full trial, whereas the petitioners have not even joined the trial process, and therefore there is no parity for them to claim the same right as of accused-Gopi Kapoor. However, none of the counsel for the respondents have pointed out or referred to any incriminating evidence from the record that would discredit the submissions made by the petitioners, based on the record itself.

10. I have heard counsel for both the petitioners and the respondents at length.

11. In the present case, complaint initially filed by complainant-Respondent No. 2 did not allege any crime against the petitioners, except for accused-Gopi Kapoor. However, during preliminary investigation, petitioners were also suspected and their names subsequently appeared in the FIR under the column of police proceedings/actions.

Upon considering of further preliminary investigation, all offences except Section 420 IPC were found to be non-existent and were therefore deleted from the case. Moreover, while submitting the final report under Section 173 Cr.P.C., the petitioners were placed in Column No. 2 and declared innocent.

Secondly, the complainant, in his examination-in-chief, improved his version for the first time (as reproduced above) and deposed that it was upon the suggestion of these two petitioners that he paid the premium to accused-Gopi Kapoor. Without critically examining this



CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)

- 7 -

improved statement by the complainant, Trial Court exercised powers under Section 319 Cr.P.C. to summon the petitioners, an order which was maintained mechanically by the Revisional Court as well.

This Court finds that substantive evidence to assume culpability of the petitioners was lacking, yet they were summoned under Section 319 Cr.P.C. Therefore, it can be observed that sufficient material or evidence was not available for framing charges against the petitioners by the Trial Court.

Furthermore, the best evidence available to the prosecution failed to prove the guilt of the main accused-Gopi Kapoor, who indisputably (as per the FIR) had received money from the complainant. While recording the finding of acquittal relevant observation recorded by the trial Court reads as follows:

“13 From this part of the cross-examination of the complainant it is clear that the very basis i.e. fake receipts allegedly issued by the complainant Gopi Kapoor is not forming the part of the file and is also not identified by the complainant in his cross examination. There is no proof of handing over of cash by the complainant to the accused Gopi Kapoor. As such the testimony of the complainant does not inspire any confidence. Also there is the allegations by the complainant against the accused and his brother regarding giving of fake gold brick in March 2012 but same is not find mentioned in the present complaint which is again a strange act from the angle of a common prudent man. Upon those allegations qua fake gold brick also as per judgment Ex.DX, the accused has been acquitted which is yet another home run in the score of the benefit of doubt in favor of the accused.

14. The next witness is again PW1 (wrongly numbered) Ranjit Singh who is stating in his cross examination that no incriminating articles were recovered from the accused during the investigation. PW3 is the Manager from the Tata AIG Company from where the complainant and his wife has taken the policies. He who has neither submitted any incriminating things against the accused nor identified the same on the file.

15. Last but not least is the PW3 (wrongly numbered) Monica Kapoor wife of the complainant who is interested witness and her cross examination also supported accused in the similar fashion of her husband/complainant/PW-1, wherein she again has stated that she is having receipts of Rs.7 lac obtained from the accused Gopi Kapoor while making the alleged payment which as per her is Ex. P21 to Ex.



CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)

- 8 -

P29 but the said receipts is not containing the signatures of accused Gopi Kapoor. As per her version, she Has not made any payment through cheque but certain receipts on the file shows otherwise. Till date complainant and his wife has not filed any appeal against the order of acquittal against the accused and his brother in the connected file. She failed to give the details of the message received from Tata AIG Company regarding fraud. In other words there is no name on the file that which employee of the Tata company told about fake receipts to the complainant or wife. In the next session of cross examination she has denied taking any receipts from the accused. As such her contradictory version again speaks the elements of doubt against the accused.

16. In light of the above-mentioned circumstances, discussion made and reasons assigned this court is of the considered opinion that the prosecution has not been able to prove its case beyond a shadow of reasonable doubt qua commission of any offence concerned against accused Gopi Kapoor. The accused stands acquitted with benefit of doubt. Case property if any be disposed of as per rules after the expiry of the period of appeal / revision if any. File complete in all aspects be consigned to record room"

Even the reliance placed by the petitioners counsel on the case of **Vikas Rath** (*supra*) is wholly applicable to the legal propositions arising in the instant case. Relevant paragraphs 13 to 15 are reproduced below:

"13. The aforesaid material was not sufficient if examined in the light of the law laid down by his Court for summoning of an additional accused in exercise of power under section/319 of the Cr.P.C., 1973 to establish complicity of the appellant in the crime.

14. After conclusion of the entire evidence and examination of the material produced on record even against the charged accused, the trial court had acquitted them vide judgment dated 15.03.2017. It shows that material produced on record was not even sufficient for conviction of the accused against whom chargesheet was filed.

15. One of the arguments raised by learned counsel appearing for the parties was that in the case in hand, the High Court instead of appreciating the material placed on record by the parties in the form of evidence to find out as to whether a case was made out for summoning of the appellant as an additional accused, remitted the matter back to the trial court for consideration afresh. Remand in such a matter will only result in prolonging the litigation. The High Court only recorded that reasons assigned by the trial court for rejecting the application were not sufficient. To avoid delay, it would have been proper exercise of power in case the High Court would have considered the material and opine as to whether a case was made out for summoning of additional accused. Whatever reasons have been recorded by the trial court in the order so passed, may not have been happily worded to the satisfaction of the High Court, but that error could have been corrected in exercise of revisional power."



CRM-M-35891-2017(O&M) and
CRM-M-41883-2017(O&M)

- 9 -

12. In view of the fact that the main accused has been acquitted, and considering that this situation has already been addressed in ***Vikas Rath***'s case (supra), there is no justification for keeping the proceedings pending against the petitioners herein. Accordingly, it is held that the order dated 15.06.2016 summoning the petitioner under Section 319 Cr.P.C, as additional accused; order dated **08.08.2017** upholding the summoning order by the Revisional Court; the order dated **04.07.2017** dismissing the application for discharge; and the order dated **17.07.2017** framing charges pursuant to FIR No. **185 dated 06.05.2012**, are all bad in law, as they are unsupported by any evidence against the petitioners. Consequently, the proceedings are quashed, and both the aforementioned petitions are **allowed**.

Criminal Miscellaneous application(s), if any, shall stand disposed of accordingly.

13. A photocopy of this order be placed on the file of another connected case.

(SANJAY VASHISTH)
JUDGE

11.08. 2025

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No