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Court : Punjab and Haryana

Decided On : Mar-24-2011

Judge : Alok Singh, J.

Acts : Indian Penal Code (IPC) - Sections 467, 468, 471, 120-B; [Prevention of Corruption Act, 1988](#) - Section 13(1)(d) read with 13(2); Code of Criminal Procedure (CrPC) - Section 319

Appeal No. : Crl. Revision No. 1415 of 2010

Appellant : Devinder Singh.

Respondent : State of Punjab.

Advocate for Def. : Ms. Bhavna Gupta, Adv.

Advocate for Pet/Ap. : Mr. G.S. Punia, Adv.

Judgement :

1. Present revision petition is filed challenging order dated 11.12.2009 passed by learned Additional Sessions Judge, Hoshiarpur, in Criminal Case No.16 dated 22.12.2006 pursuant to FIR No. 20 dated 10.05.2005, under Sections 467, 468, 471, 120-B of the Indian Penal Code and Section 13(1)(d) read with Section 13(2) of the [Prevention of Corruption Act, 1988](#), registered at Police Station Vigilance Bureau, Jalandhar, whereby learned Trial Court has summoned the present revisionist as additional accused under Section 319 of the Code of Criminal Procedure to face the trial.

2. Brief facts, inter-alia, are as under: - "One Bahadur Singh had 38 Kanals 6 Marlas of land at Bija Bhatoki and as per revenue record for the year 1950 Bahadur Singh has been shown as owner of said land. That said Bahadur Singh had gone somewhere for the last 30/32 years. That said land was being cultivated by one Hari Ram son of Hako Ram of village Banial. That in the said land, Santokh Singh son of Bahadur Singh was having 1/2 share. That Baldev Singh, Balbir Kaur son and daughter of Raghbir Singh son of Bahadur Singh was also having 1/2 share in the said land. On 17.11.2003 this land was transferred by sale by Santokh Singh, Baldev Singh and Balbir Kaur to Devinder Singh for a consideration of Rs. 22 lacs. That a forged death certificate of Raghbir Singh has been procured and three imposters had appeared as Raghbir Singh's heir i.e. Santokh Singh, Baldev Singh and Balbir Kaur before the Sub Registrar to execute the sale deed and transfer the property Devinder Singh. That Tarsem Singh and Bawa Singh also played a part in the preparation and execution of the sale deed."

3. On the basis of this statement, a case was registered against Bawa Singh, Satinder Singh, Jasbir Kaur, Tarsem Singh, Sukhwinder Singh, Daljit Singh, Joginder Singh, Devinder Singh and Malkiat Singh, but, however, during investigation, Devinder Singh present petitioner and Malkiat Singh were found innocent and their names were mentioned in column no.2 of the challan. Thereafter, charges were framed against accused Bawa Singh, Satinder Singh, Jasbir Kaur, Tarsem Singh, Sukhwinder Singh, Daljit Singh and Joginder Singh to which they did not plead guilty and claimed trial. Thereafter, statements of 9 prosecution witnesses were recorded.

4. Learned Addl. P.P. filed an application under Section 319 of the Code of Criminal Procedure on the averments that Surjit Ram, PW has already been examined and he has stated on oath that accused Devinder Singh son of Sukhdev Singh revisionist has played active role in getting the sale deed executed in his favour by producing three imposters of Santokh Singh, Baldev Singh and Balbir Kaur, executants of the sale deed before the Sub Registrar. Learned Additional Sessions Judge, Hoshiarpur, vide impugned order dated 11.12.2009 having observed that Devinder Singh in connivance with Joginder Singh and other got executed fake sale deed by producing Santokh Singh, Baldev Singh and Balbir

Kaur, thus, he is required to face trial along with other co-accused, allowed the application. Hence, present revision petition. I have heard learned counsel for the revisionist, as well as, taught Deputy Advocate General, Punjab, and perused the record.

5. Report was lodged by the complainant claiming himself to be in possession of the property in dispute, stating therein that he has never seen Bahadur Singh or his legal heirs in the village, hence, by claiming themselves as legal heirs of Bahadur Singh other accused have sold the land in question illegally.

6. Learned Additional Sessions Judge, has made flouting observation in the order as under: - .PW9 Surjit Ram while appearing in the court reiterated his earlier version given to the police. He has categorically deposed on oath that on 17.11.03 Davinder Singh in connivance with Joginder Singh got executed fake sale deed by CRR No. producing Santokh Singh, Baldev and Balbir Kaur impersonating for the land of 38 kanals 6 marlas. That the said impersonators do not belong to his village. PW9 Surjit Ram was also cross examined by the learned counsel for the accused but his veracity could not be shaken.

7. In the considered opinion of the Court, there is prima facie sufficient evidence on record that Davinder Singh in connivance with co- accused Joginder Singh and others got executed fake sale deed by producing Santokh Singh, Baldev Singh and Balbir Kaur impersonating for the above said land. Thus, Devinder Singh is also required to face trial along with his co- accused.

8. Hon'ble Apex Court in the matter of Ram Pal Singh & others versus State of U.P. and another, reported in 2009(2) RCR (Criminal) 131, in paragraph Nos. 15 and 16 has observed as under:- "15. The ingredients of Section 319 are unambiguous and indicate that where in the course of inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence, for which such person could be tried together with the accused, the Court may proceed against such person for the offence he has committed.

9. All that is required by the Court for invoking its powers under Section 319 Cr.P.C. is to be satisfied that from the evidence adduced before it, a person against whom no charge had been framed, but whose complicity appears to be clear, should be tried together with the accused. It is also clear that the discretion is left to the Court to take a decision on the matter."

10. Hon'ble Apex Court in the matter of Suman versus State of Rajasthan and another, reported in 2010(1) Criminal Court Cases, 269 (S.C.), in paragraph no.11 has held as under:-

"11. Section 319 Cr.P.C. applies to all the Courts including the Sessions Court. It empowers the Court to add any person, not being the accused before it, but against whom there appears during trial sufficient evidence indicating his involvement in the offence, as an accused and direct him to be tried along with other accused. If such person is not attending the Court, he can be arrested or summoned. If he is attending the Court, although not under arrest or upon a summons, he can be detained by such Court for the purpose of inquiry into, or trial of the offence which he appears to have committed. Sub-section (4) lays down that where the Court proceeds against any person under sub-section (1), the proceedings in respect of such person shall be commenced afresh and witnesses are reheard. A reading of the plain language of sub-section (1) of Section 319 Cr.P.C. makes it clear that a person not already an accused in a case can be proceeded against if in the course of any inquiry into or trial of an offence it appears from the evidence that such person has also committed any offence and deserves to be tried with other accused. There is nothing in the language of this sub-section from which it can be inferred that a person who is named in the FIR or complaint but against whom charge-sheet is not filed by the police, cannot be proceeded against even though in the course of any inquiry into or trial of any offence the Court finds that such person has committed any offence for which he could be tried together with the other accused."

11. From the material available on the record, it is, thus, clear that Bahadur Singh was recorded owner of the land and mutation was sanction in favour of his legal heirs i.e. one son Santokh Singh and one grandson Baldev Singh and

granddaughter Balbir Kaur on 22.07.2003, which was duly verified by Halqa Girdwar on 23.07.2003. It is also clear that civil suit is pending. Devinder Singh revisionist is stated that he has purchased the land from the legal heirs of Bahadur Singh for a valuable consideration of Rs.22 lacs.

12. Prosecution case is that the co-accused facing trial, have executed the sale deed in favour of the revisionist by claiming themselves legal heirs of Bahadur Singh i.e. Santokh Singh, Baldev Singh and Balbir Kaur. Investigating Officer during the investigation has found that accused facing the trial posing them as Santokh Singh, Baldev Singh and Balbir Kaur have executed sale deed in favour of the revisionist.

13. The sole question before the Trial Court is as to whether other accused have executed sale deed as imposters posing themselves as Santokh Singh, Baldev Singh and Balbir Kaur. It is not the case of the revisionist that sale deed was not executed by other co-accused showing themselves as Santokh Singh, Baldev Singh and Balbir Kaur. PW9 Surjit Ram has specifically stated that Santokh Singh, Baldev Singh and Balbir Kaur never visited the village and other co-accused with the connivance of the present revisionist have executed sale deed in favour of the revisionist to grab the land in his possession and cultivation.

14. In the opinion of this Court, involvement of the present revisionist in getting the sale deed executed seems to be there. Present revisionist was present in the Sub Registrar office at the time of registration. As per the dictum of the Hon'ble Apex Court, a person can be summoned to face trial as a co-accused under Section 319 of the Code of Criminal Procedure if Court finds that such person has committed any offence or is involved in the commission of the offence or whose complicity appears to be clear.

15. In the opinion of this Court, complicity of the present revisionist appears to be clear in view of the above discussion; therefore, impugned order does not call for any interference.