

REVISED

ITEM NO.101

COURT NO.12

SECTION IIB

S U P R E M E C O U R T O F I N D I A
 RECORD OF PROCEEDINGS
 CRIMINAL APPEAL NO(s). 175 OF 2006

AMAR NATH

Appellant (s)

VERSUS

STATE OF HARYANA

Respondent(s)

(With appln(s) for stay and office report)

Date: 12/03/2014 This Appeal was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI
 HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Mr. S.K. Pabbi, Adv.
 Mr. Ajay Kumar Singh, Adv.
 Mr. S.K. Sabharwal, Adv.

For Respondent(s) Mr. Manjit Singh, AAG
 Mrs. Vivekta Singh, Adv.
 Ms. Nupur Chaudhary, Adv.
 Mr. Kamal Mohan Gupta, Adv.

UPON hearing counsel the Court made the following
 O R D E R

The appeal is disposed of in terms of the signed order.

[Gulshan Kumar Arora]
 Court Master

[Indu Pokhriyal]
 Court Master

(Signed order is placed on the file)
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IN THE SUPREME COURT OF INDIA
 CRIMINAL APPELLANT JURISDICTION
 CRIMINAL APPEAL NO.175 OF 2006

Amar Nath

... Appellant

versus

State of Haryana

... Respondents

ORDER

1. The appellant has challenged order dated 24.10.2002 passed by the High Court of Punjab and Haryana at Chandigarh dismissing the petition filed by him under Section 482 of the Code of Criminal Procedure (for short, the 'Code') praying that the summoning order issued against him under Section 319 of the Code be quashed.

2. The First Information Report (FIR) dated 17.10.1989 under Sections 406, 408, 420, 468 and 471 of the Indian Penal Code was lodged at Police Station City Dabwali, Haryana by In-charge of Haryana Agro Industries Corporation Limited against the appellant and one Roshan Lal Chawla. Admittedly, the police submitted final report. As against the appellant, the police found no material and hence his name did not figure in the charge sheet. On 7.8.1997, co-accused Roshan Lal Chawla submitted an application under Section 319 of the Code praying that the appellant be summoned. The said application was allowed on the same day and the appellant was summoned. The appellant filed revision application challenging the said summoning order dated 7.8.1997 in the Sessions Court, Sirsa,

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Haryana. On 22.4.1998, the Sessions Court stayed the summoning order. On 13.5.1998, the appellant was declared proclaimed offender. Admittedly, on 16.9.1998, the Sessions Court quashed the summoning order. The Sessions Court also observed that resultantly the order declaring the appellant proclaimed offender is also set aside. There is no dispute about the fact that the Sessions Court's order dated 16.9.1998 has not been challenged and has consequently assumed finality. In the meantime, the trial as against co-accused Roshan Lal Chawla was completed and he was acquitted on 5.6.1998. On 16.10.1998, the complainant, In-charge of Haryana Agro Industries Corporation Limited filed an application under Section 319 of the Code for summoning the appellant. This was presumably done on the basis of the observations made by learned Sessions Judge while allowing the revision application filed by the appellant challenging the summoning order that the Trial Court may summon the appellant as co-accused on the asking of the prosecution complainant and after

appraising the evidence. On the said application, summoning order was passed on 21.10.1998 by the Trial Court. On 7.12.1998, charge was framed. The appellant had challenged the summoning order dated 21.10.1998 and the charge framed on 7.12.1998 in the Sessions Court by filing a revision. On 3.12.1999, the said revision was dismissed. The appellant challenged the said order in the High Court. The High Court dismissed his revision and hence this appeal.

3. We have heard learned counsel for the appellant and learned counsel for the State of Haryana at some length.

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4. Learned counsel for the appellant submitted that the impugned order is illegal and is in the teeth of the Constitution Bench judgment of this Court in Hardeep Singh vs. State of Punjab & Ors. [2014) 1 SCALE 241]. Learned counsel for the State has drawn our attention to the judgment in Shashikant Singh vs. Tarkeshwar Singh & Anr. [(2002) 5 SCC 738]. She submitted that the impugned order is in tune with this judgment.

5. In our opinion, it is not necessary to refer to the said judgments inasmuch as the facts of this case are peculiar and this appeal will have to be disposed on those facts. The complaint is dated 17.10.1989. Co-accused Roshan Lal Chawla is acquitted. His acquittal is not challenged. That order has assumed finality. The Sessions Court quashed the order summoning the appellant on 16.9.1998. That order is also not challenged. We are, therefore, inclined to interfere with the impugned judgment and order. In the circumstances, we set aside the impugned judgment and order dated 24.10.2002 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Misc. No.5238-M of 2000.

6. The appeal is disposed of accordingly.

.....
(Ranjana Prakash Desai)

.....

(Madan B. Lokur)

New Delhi;
March 12, 2014

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