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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (Criminal) No. 7988 of 2012

Ravinder

.....Petitioner

Vs.

State (NCT of Delhi)

.....Respondent

WITH S.L.P.(Crl.) No. 2406/2013

O R D E R

1. These two petitions raise identical question. For sake of convenience, we take note of facts in SLP(Crl.) No.7988/2012. This Special Leave Petition has been filed against the judgment of the High Court of Delhi, passed in Criminal Revision Petition No. 126 of 2012 vide impugned judgment dated 8th May 2012. The High Court has dismissed the said Criminal Revision Petition filed by the petitioner herein. The petitioner is facing criminal proceedings in FIR No. 351/2010 lodged with Police Station, Sarita Vihar, New Delhi, under Sections 302/120-B/34 IPC and 419/420 IPC as well as under Sections 25/27 of the Arms Act. After the lodging of FIR when the charge sheet was filed in the Court of Metropolitan Magistrate on 26.3.2011, the petitioner was not named as accused but his name was kept in Column No.12 by the Investigating Officer. The case was committed to the Sessions Court on 21.5.2011. The learned Additional Sessions Judge, Delhi, seized of the matter, after going into the statement of the witness and other relevant evidence especially the Mobile phone call record, took the view that cognizance should have been taken against the petitioner as well. He, thus, sent case back to the learned Metropolitan Magistrate vide order dated 11.1.2012 for issuing summons to the petitioner. In compliance, the Metropolitan Magistrate issued summons to the petitioner on 13.1.2012.

2. Aggrieved by the aforesaid summoning order, the petitioner filed Criminal Revision Petition in the High Court challenging it on the ground that the only provisions stipulated arraying additional accused was under Section 319 of the Cr.P.C. and that can be invoked if there was material evidence against him, during the trial.

3. This contention has not found favour with the High Court resulting into dismissal of the Revision Petition filed by the petitioner. The High Court noted that this Court had taken contrary view in this behalf in two sets of judgments. One was the case of Kishun Singh vs. State of Bihar (1993) 2 SCC 16, where the view was taken that Session Court had the power to deal with such a contingency and direct the Magistrate to rectify the mistake. This view was reiterated in Randhir Singh Rana vs. State (Delhi Administration) (1997) 1 SCC 361, the three-member bench. Contrary view was taken in the later decision in the case of Dharampal & Ors. Vs. State of Haryana & Anr. (2004) 13 SCC 9 and matter referred to the larger Bench. The High Court, for the reasons stated in the impugned order, chose to follow the view taken in Kishun Singh case (supra).

4. The Constitution Bench of this Court has since decided Dharampal's case and vide its judgment delivered on July 18, 2013 set at rest the controversy by affirming the view taken in Kishun Singh and Ranjit Singh cases in respect of the powers of the Sessions Court after committal the case by the Magistrate under Section 209, Cr.P.C.

5. In view of the aforesaid Constitution Bench decision, we find no merit in these Special Leave Petitions, which are accordingly dismissed.

.....J.  
(K.S.Radhakrishnan)

.....J.  
(A.K.Sikri)

New Delhi,  
21st October, 2013  
ITEM NO.48

COURT NO.8 SECTION II  
S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).7988/2012

(From the judgement and order dated 08/05/2012 in CRLRP No.126/2012 of the HIGH COURT OF DELHI AT NEW DELHI)

RAVINDER Petitioner(s)  
VERSUS

STATE (NCT OF DELHI) Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment, stay and office report)

WITH  
SLP(Crl) NO. 2406 of 2013  
(With appln. for stay and office report)

Date: 21/10/2013 These Petitions were called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN  
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s)  
Mr. Joginder Tuli, Adv.  
Mr. Ashul Kr. Sharma, Adv.  
Mr. Harish Kr. Pant, Adv.  
Mr. Anis Ahmed Khan, Adv. (NP)

Mr. Nitin Kumar Thakur, Adv.  
For Respondent(s)  
Mr. Rakesh Kr. Khanna, ASG  
Ms. Kiran Bharadwaj, Adv.  
Mr. Harsh Prabhakar, Adv.  
Mr. V.N. Subramaniam, Adv.  
Mr. D.S. Mahra, Adv. (NP)

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

The special leave petitions are dismissed.

|(N.S.K. Kamesh)

| |(Renuka Sadana)

|  
|Court Master

| |Court Master

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(signed order is placed on the file)