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MCRC-12237-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 27th OF FEBRUARY, 2026MISC. CRIMINAL CASE No. 12237 of 2024*MOHAMMAD NASIR QURESHI**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Ahadulla Usmani - Advocate for the applicant.

Ms. Samta Jain - Govt. Advocate for respondent State.

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ORDER

Heard on admission.

Admit.

Record is received.

Learned Govt. Advocate submits that case diary is received; therefore, with the consent of counsel for parties the matter is heard finally and disposed of.

In this this case challenge is made by applicant Mohammad Nasir Qureshi to the order dated 16.01.2024 passed by Additional Session Judge, Chourai, District Chhindwara in Criminal Appeal No. 90/2020 wherein learned A.S.J in paragraph 19 (2) has directd to proceed against the applicant Mohd. Nasir Qureshi S/o Mohammad Shafi Qureshi under Section 319 of the Code of Criminal Procedure.

2. Heard the counsel for both the parties and perused the record.

3. Learned counsel for the Revisioner submits that by the judgment



dated 16.1.2024 passed by the learned Appellate Court in Criminal Appeal No. 90/2020; whereby Komal Solanki had challenged his conviction under Section 9 of Madhya Pradesh Go Vansh Pratishedh Adhiniyam, 2004 and under Section 66 read with Section 192 of Motor Vehicle Act vide judgment dated 9.4.2019 by the learned Judicial Magistrate First Class, Chourai, District Chhindwara in Criminal Case No. 843/2013 State of Madhya Pradesh v. Komal Solanki, while rejecting the appeal of Komal Solanki directed the trial Court to inquire and try the owner of the truck bearing registration No. CG 4G 9117 Mohd. Nasir Qureshi S/o Mohd. Shafi Qureshi R/o Thana Mohkheda, District Chhindwara under Section 319 Cr.P.C and decide the case and the case be registered on a new number against applicant Nasir Qureshi.

4. Learned counsel for the Revisioner submits that this procedure is totally illegal and unknown to the criminal jurisprudence.

5. Learned Govt. Counsel Mrs. Samta Jain - Govt. Advocate also fairly admits that this procedure is unknown because the trial Court can try an additional accused if either evidence is recorded during investigation stage or during the trial. But, in this case neither the Police while filing charge-sheet against Komal Singh mentioned any role of the applicant Mohd. Nasir Qureshi nor any evidence was recorded during the trial and during the trial prosecution produced three witnesses, i.e, P.W.-1 Sohanlal Daheriya Kotwar, P.W.-2 Dr. Morya Veterinary Doctor, P.W. -3 - Ramji Singh the then Sub Inspector who investigated the case but name of Mohd. Nasir was not there.

6. In **Omi @ Omkar Rathore and another v. State of M.P. and another**



[(2025) 2 SCC 621], Hon'ble Supreme Court has summarized the procedure for summoning an accused under Section 319 in paragraph 19, which is reproduced as under:

"19. The principles of law as regards Section 319CrPC may be summarised as under:

19.1. On a careful reading of Section 319CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the FIR as an accused, but not charge-sheeted, can also be added to face the trial.

19.2. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the charge-sheet or the case diary, because such materials contained in the charge-sheet or the case diary do not constitute evidence.

19.3. The power of the court under Section 319CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the charge-sheet by the police against the person concerned. As regards the contention that the phrase "any person not being the accused" occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in Column 2 of the charge-sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the criminal court are included in the said expression.

19.4. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the investigating officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the



investigating officer hardly matters. If satisfaction of investigating officer is to be treated as determinative then the purpose of Section 319 would be frustrated."

7. On perusal of above principle, it is seen that the order of the learned Additional Sessions Judge cannot be upheld. This is a principle unknown to the criminal jurisprudence and hence cannot be sustained.

8. Accordingly the M.Cr.C is allowed and the impugned judgment dated 16.01.2024 passed in Criminal Appeal No. 90/2020 by learned ASJ Chourai, District Chhindwara so far as it relates to registered owner of the truck Mohd. Nasir Qureshi S/o Mohd. Shafi Qureshi is set aside as not being a legal direction.

9. With the aforesaid the M.Cr.C stands **allowed and disposed of**.

(AVANINDRA KUMAR SINGH)
JUDGE

VKT