
(2006) 05 P&H CK 0238
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1160 of 2006

State of Haryana

APPELLANT

Vs

Madan Lal and Others

RESPONDENT

Date of Decision : 30-05-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(8)

Citation : (2006) 3 RCR(Criminal) 1001

Hon'ble Judges : Satish Kumar Mittal, J

Bench : Single Bench

Advocate : Yashwinder Singh, A.A.G., Haryana, for the Appellant;

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The State of Haryana has filed this criminal revision against the order dated 9.1.2006 passed by the Additional Sessions Judge, Sirsa, whereby its application for further investigation of the case filed u/s 173(8) Cr. P.C. has been dismissed, while observing as under :-

After having heard submission of both the sides at length, going through the case file carefully and thoroughly and the law relied upon by both the sides, I am of the considered opinion that under the provisions of Section 173(8) Cr. P.C. the prosecution can further investigate any case even after filing challan u/s 173(2) Cr. P.C. and cognizance taken by the Court and in case challan has been filed in the Court u/s 173(2) Cr. P.C. and cognizance is taken by the Court, formal permission of the Court is required but admittedly, accused Madan Lal made an application to Chief Minister, Haryana and the prosecution wants to make further investigation on an application of accused Madan Lal etc. but in view of the case law in Shyam Charan Dubey's case (supra), further investigation cannot be made on the instance of accused. Since the prosecution agency is making further investigation on the instance of accused and the prosecution wants to further investigate the matter on the asking of the accused which is not permissible under the provisions of Section 173(8) Cr. P.C. so, in my opinion, there is no

merit in the application.

2. I have heard the counsel for the petitioner. In this case, after the investigation the police has submitted the challan against the accused. During the pendency of the trial, the accused made an application to the Chief Minister, Haryana for further investigation stating therein that they have been falsely challaned by the Police in the case due to political pressure. On the basis of the said application, the investigating agency submitted the application for further investigation of the case. In *Shyama Charan Dubey Vs. State of U.P.*, it was held that sub-section (8) of Section 173 Cr. P.C. is only permissive in character. The sub-section provides that the Investigating Officer or the Officer Incharge of Police Station may undertake a further investigation even after filing of a charge-sheet. If he does so, the further evidence collected by him shall be forwarded to the Magistrate along with a further report. The said power has been given to the investigating agency to undertake further investigation in case they come to the conclusion that the same is necessary in a particular case, but merely on the asking of the accused, in my opinion, the investigating agency cannot seek permission from the Court to further investigate the matter. Therefore, I do not find any illegality in the order dated 9.1.2006 passed by the Additional Sessions Judge, Sirsa.

Dismissed.