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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-6618-2026 (O&M)**Reserved on:-11.03.2026****Pronounced on:- 13.03.2026****Uploaded on:- 13.03.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced:*

operative part/full judgment

Surinder Singh @ Judge and Others

....Appellants

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Akhil Godara, Advocate for the petitioner.

Mr. H.S.Wadhwa, DAG Punjab.

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MANDEEP PANNU J. (Oral)

1. The present petition has been filed under Section 528 of the BNSS for quashing of the criminal complaint bearing No. COMI/96/2021 dated 10.06.2021 titled '*Harbhajan Kaur versus Dayal Singh etc.*' under Sections 307, 452, 120-B IPC and Section 27 of the Arms Act (Annexure P-1) and the summoning order dated 19.08.2025 (Annexure P-4) passed by the learned ACJM, Gurdaspur, District Gurdaspur, along with all consequential proceedings arising therefrom.

2. Briefly stated, FIR No. 62 dated 24.07.2018 was got registered by complainant Dayal Singh son of Barkat Singh at Police Station Tibber, District Gurdaspur under Sections 364, 307, 452, 342, 148, 149, 120-B IPC and Section 25 of the Arms Act. As per the allegations in the FIR, the complainant, who had come from America to his village Nawa Pind, alleged that on the night of 23.07.2018 at

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about 03:00 AM, accused Gurvinder Singh, his brother Ravinder Singh and 9/10 unidentified persons allegedly broke open the door of his house, forcibly entered inside and assaulted him. It was further alleged that Gurvinder Singh picked up the licensed revolver of the complainant and, at gunpoint, forcibly took him in a Scorpio vehicle to their tubewell where he was allegedly beaten with sticks. Thereafter, the complainant was taken to the courtyard where Gurvinder Singh allegedly fired shots from the revolver and one shot hit Robert Masih on his left leg. The police was thereafter informed and the complainant was rescued from the spot. After inquiry by the police, FIR No. 62 dated 24.07.2018 was registered at Police Station Tibber, District Gurdaspur under Sections 364, 307, 452, 342, 148, 149, and 120-B IPC and Section 25 of the Arms Act against Gurvinder Singh, Ravinder Singh, Baljit Kaur wife of Ravinder Singh, Davinder Singh son of Ranjit Singh, Robert Masih and other persons.

3. It is further the case of the petitioners that during the course of investigation, the police presented three separate challans. Initially, challans were presented against Gurvinder Singh and Davinder Singh on one side and against Ravinder Singh and Baljit Kaur on the other side on 30.05.2019 and 15.06.2019 respectively, and they were also declared proclaimed offenders. Thereafter, the police presented a supplementary challan dated 06.08.2021 giving clean chit to Ravinder Singh and Baljit Kaur. Aggrieved against the said supplementary challan, complainant Dayal Singh approached this Court and vide order dated 09.05.2022, the operation of the supplementary challan giving clean chit to Ravinder Singh and Baljit Kaur was ordered to be kept in abeyance.

4. It is further the case of the petitioners that after a delay of about three years, respondent No.2—complainant Harbhajan Kaur filed the present private



complaint on the same occurrence on the basis of which the police had already registered FIR No.62 dated 24.07.2018, but by putting forth an altogether different version of the incident. In the said complaint, the following persons were arrayed as accused: (1) Dayal Singh son of Barkat Singh, (2) Surinder Singh @ Judge son of Joginder Singh, (3) Malkeet Singh @ Mida son of Vakil Singh and (4) Jaswant Singh @ Manga. As per the allegations made in the complaint, in the intervening night of 23/24.07.2018, when Robert Masih was present in the house of the complainant and in the early morning at about 04:30/05:00 AM he opened the gate of the house upon someone knocking, the aforesaid accused persons allegedly came there armed with weapons and forcibly entered the house of the complainant. It was alleged that accused Dayal Singh fired a pistol shot which hit Robert Masih on his left leg and thereafter another shot was fired towards Gurwinder Singh with an intention to kill him. It was further alleged that the accused persons trespassed into the house in furtherance of their common intention and fled away from the spot after the occurrence.

5. On the basis of the aforesaid complaint, the petitioners, namely, Surinder Singh, Malkit Singh @ Mida and Jaswant Singh @ Manga, along with non-petitioner Dayal Singh, have been summoned to face trial for the offences punishable under Sections 307, 452, 120-B IPC and Section 27 of the Arms Act vide impugned summoning order dated 19.08.2025 passed by the learned ACJM, Gurdaspur.

6. Learned counsel for the petitioners contends that the impugned summoning order dated 19.08.2025 passed by the learned ACJM, Gurdaspur is wholly illegal and unsustainable in the eyes of law. It is submitted that the private complaint has been filed by respondent No.2 after a delay of about three years

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regarding the same occurrence for which FIR No.62 dated 24.07.2018 had already been registered and the police had conducted investigation and presented the challan. It is further contended that the learned Magistrate failed to appreciate that in view of the pendency of the FIR and the police investigation in respect of the same incident, the provisions of Section 210 Cr.P.C. were clearly attracted and the proceedings in the complaint case ought to have been stayed. It is argued that despite the said legal position, the learned Magistrate proceeded to summon the petitioners without considering the material available in the FIR case, thereby rendering the impugned order liable to be set aside.

7. This Court has considered the rival submissions and perused the material placed on record.

8. From the record, it clearly emerges that the present matter arises out of two rival versions of the same occurrence. The first version was put forth by Dayal Singh, on the basis of which FIR No. 62 dated 24.07.2018 was registered at Police Station Tibber, District Gurdaspur under various provisions of the IPC and the Arms Act. In the said FIR, allegations were levelled against Gurvinder Singh, Ravinder Singh and other persons regarding the occurrence which allegedly took place during the intervening night of 23/24.07.2018 at Village Pahra, district Gurdaspur.

9. Subsequently, after a lapse of about three years, respondent No.2—complainant Harbhajan Kaur filed the present private complaint regarding the very same occurrence. In the said complaint, an altogether counter version of the incident has been set up by alleging that Dayal Singh along with Surinder Singh @ Judge, Malkeet Singh @ Mida and Jaswant Singh @ Manga had forcibly entered the house of the complainant and that Dayal Singh had fired a pistol shot which



resulted in injuries to Robert Masih and also attempted to fire at Gurvinder Singh. On the basis of the said complaint, the learned Magistrate passed the impugned order dated 19.08.2025 summoning the petitioners along with Dayal Singh to face trial under Sections 307, 452, 120-B IPC and Section 27 of the Arms Act.

10. Thus, from the material available on record, it is evident that both the proceedings arise out of the same transaction and the same occurrence, but each side has put forth a different version attributing the role of aggressor to the other side. The FIR lodged on the statement of Dayal Singh represents the first version, whereas the complaint filed by Harbhajan Kaur constitutes the cross-version of the same incident.

11. At this stage, it is also not in dispute that in the FIR case, investigation has already been completed and the police has presented the challan before the competent Court, where the proceedings arising out of the police report are pending.

12. The contention raised on behalf of the petitioners that the learned Magistrate could not have proceeded with the complaint case on account of the pendency of the FIR case does not merit acceptance. Merely because an FIR has already been registered regarding an occurrence does not *ipso facto* bar the filing or entertainment of a complaint containing a counter version of the same incident. Where two rival versions of the same occurrence are brought before the Court, each version has to be examined on the basis of the evidence produced in support thereof.

13. It is a settled principle of criminal law that in cases involving version and cross-version, both cases are required to proceed independently on the basis of their respective evidence, though as a matter of prudence and judicial practice such



cases are normally tried by the same court so that the entire occurrence can be appreciated in its proper perspective and conflicting findings are avoided.

14. A similar view has been taken by the coordinate bench of this court in ***Vicky and others Versus state of Punjab and another 2024 NCPHHC 128132***, which lends weight to the present contention. Para 15 of the said judgment reads as follows:

“15. The short question involved in the present petition is whether the complaint case and the police case could have been clubbed together or not. As per the Judicial Magistrate, both the cases relate to the same occurrence. The complaint filed by respondent No.2 was against Vicky-petitioner No.1, Suresh Kumar-petitioner No.2, Gagandeep-petitioner No.3, and Surinder Kumar-petitioner No.4 whereas in the cross FIR registered at the instance of Vicky, the accused were Krishan, Baldev Suri, Rohit Suri- respondent No.2, Rahul Suri and their driver whose name was not known. As stated in the beginning, Section 210 CrPC mandates the clubbing of FIR and criminal cases relating to offense provided the allegations have been made by the same party, i.e., on the allegations made by one party, a complaint is also filed, and FIR is registered. In the present case, the petitioners registered the FIR against the respondent-complainant; thus, the law would be that both cases should be tried together but not clubbed together.”

15. Support is also derived from the judgement of the Hon’ble Apex Court in ***Nathi Lal v. State of Uttar Pradesh 1990 (sup) SCC 145***, wherein it was held in para 2:



“2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

16. Therefore, the mere fact that the police has already presented the challan in the FIR case cannot be construed as a legal bar for the Magistrate to entertain the complaint which sets up the counter version of the occurrence.

17. A perusal of the impugned order further reveals that the learned Magistrate has taken into consideration the preliminary evidence led by the complainant under Sections 200 and 202 Cr.P.C. and upon being satisfied that a prima facie case was made out, issued process against the accused persons. At the stage of summoning, the Magistrate is only required to examine whether there



exists sufficient ground to proceed, and a meticulous appreciation of evidence is neither warranted nor permissible at that stage.

18. In the present case, the complaint specifically attributes overt acts to the accused persons and alleges that the accused, in furtherance of their common intention, trespassed into the house of the complainant and that accused Dayal Singh fired a shot which caused injury to Robert Masih. The preliminary evidence led by the complainant was found sufficient by the learned Magistrate to form a prima facie opinion regarding the commission of offences. This Court does not find any perversity or patent illegality in the approach adopted by the learned Magistrate while passing the impugned order.

19. It is well settled that the inherent jurisdiction of this Court is to be exercised sparingly, and interference at the stage of summoning is warranted only when the order suffers from manifest illegality or when continuation of the proceedings would amount to an abuse of the process of the Court. In the present case, the complaint discloses a distinct counter version of the occurrence, and the correctness or otherwise of the allegations made therein can only be tested during the course of trial after the parties are afforded an opportunity to lead their respective evidence.

20. In view of the above discussion, this Court is of the considered opinion that the impugned summoning order dated 19.08.2025 passed by the learned ACJM, Gurdaspur does not suffer from any illegality or infirmity warranting interference in exercise of the inherent jurisdiction of this Court.

21. Accordingly, the present petition is dismissed. However, keeping in view that the FIR case arising out of the same occurrence is already pending on the basis of the police report, it is observed that the trial court shall make an endeavour

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to ensure that both the cases arising out of the two rival versions of the occurrence are dealt with in accordance with law so that the entire controversy is adjudicated comprehensively.

22. The petition stands disposed of in the above terms

23. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

24. All pending miscellaneous application(s), if any, stands disposed of.

March 13, 2026

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(MANDEEP PANNU)

JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No