

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

**CRM-M-1941 of 2011 (O&M)
Date of Decision: 14.07.2015**

Sunderlal Bajaj and others ... Petitioners

Versus

Komal and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Pritam Saini, Advocate
for the petitioners.

Mr. Vivek Singla, Advocate
for respondent No.1.

Mr. Pawan Jhanda, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J. (Oral)

Petitioners seek quashing of complaint case No.1384 dated 04.11.2009, under Sections 498-A, 406, 323, 506, 34 IPC titled as **Komal Vs. Ajay and others** as well as summoning order dated 10.08.2010. After filing of the complaint and before taking cognizance, Judicial Magistrate Ist Class, Hissar passed an order requiring Police to submit report under Section 202 Cr.P.C. In compliance to said requirement, Police submitted detailed report dated 06.04.2010 before the Court. Judicial Magistrate Ist Class, Hissar vide order dated 10.08.2010 passed an order of summoning the accused for the offences under Sections 498-A, 406, 323, 506, 34 IPC without taking into consideration the report under Section 202 Cr.P.C submitted by Police.

Apparently, in the preliminary evidence, complainant got

examined as many as five complainant witnesses but Judicial Magistrate Ist Class, Hissar postponed the issue of taking cognizance and asked for report under Section 202 Cr.P.C. Despite receiving the report, learned Judicial Magistrate Ist Class, Hissar has failed to take notice of said report and passed the order of summoning on 10.08.2010. If the report under Section 202 Cr.P.C was not required to be submitted then there was no impediment for the Court to take cognizance after conclusion of preliminary evidence. Since the Magistrate has failed to take note of report under Section 202 Cr.P.C, therefore it is a fit case where the Judicial Magistrate Ist Class, Hissar be asked to consider report under Section 202 Cr.P.C and pass fresh order in accordance with law.

Consequently, order dated 10.08.2010 is hereby quashed. Judicial Magistrate Ist Class, Hissar is directed to pass order afresh in accordance with law.

Disposed of.

Learned counsel for the petitioner at this stage has pointed out that petitioner No.1 Sunderlal has already expired. Proceedings qua him would stand abated, if the information is found to be correct.

(RAJ MOHAN SINGH)
JUDGE

July 14, 2015
prince