

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-21955 of 2013 (O&M)

Date of Decision 06.01.2015

Bhoop Singh and others

..Petitioners

Versus

Hoshiar Singh

..Respondent

CORAM: HON'BLE MR.JUSTICE M.M.S BEDI

Present: Mr. S.K. Yadav, Advocate,
for the petitioners.

Mr. J.S. Mehendiratta, Advocate,
for the respondent.

M.M.S BEDI, J.(ORAL)

Petitioners have challenged the summoning order dated 06.10.2012 on the ground that no offence is made out from the bare reading of the complaint as well as on the basis of preliminary evidence.

I have carefully perused the summoning order dated 06.10.2012 passed by Mr. Vishal, Judicial Magistrate Ist Class, Mahendergarh. It is surprising that neither contents of the complaint nor the names of the witnesses, who appeared have been touched in the summoning order and the order has been passed merely observing that in view of observations in ***U.P. Pollution Control Board Vs. Mohan Meakins Ltd. and others 2000(2) RCR (Criminal) 421***, it is not necessary to discuss the preliminary evidence at length. The summoning order is absolutely non-speaking order reflecting the non-application of the mind by the Judicial Officer. Passing of summoning orders casually by the Judicial Magistrates is not permitted under the judgment relied upon by the learned Magistrate. The order dated

06.10.2012 deserves to be set aside solely on the ground that it is a non-speaking order. The same is accordingly quashed with a specific direction to the Magistrate to consider the contents of the complaint and the preliminary evidence in context to the provisions of sections under which the complaint has been filed.

The Magistrate is required to pass a speaking order whether prima facie any offence is made out under any of the offences mentioned in the complaint on the basis of the preliminary evidence produced. The matter is remanded back to the trial Court for reconsideration. The complainant will appear before the trial Court on 28.02.2015 for further proceedings. The summoning order is set aside.

The petition is allowed in the above terms. It is further directed that the speaking order will be passed regarding summoning of the accused, within a period of one month after receipt of a copy of this order.

06.01.2015*harsha***(M.M.S.BEDI)
JUDGE**