

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

CRM-M-2497-2011 (O&M)

Date of Decision: November 03, 2015

Arun Kumar Chakarborti and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Rajiv Kataria, Advocate
for the petitioners.

Mr. Sanjay Kumar Saini, AAG, Haryana.

Mr. Lokesh Sinhal, Advocate
for respondent No. 2.

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1. *Whether Reporters of local papers may be allowed to see the judgment? **Yes***
2. *To be referred to the Reporters or not? **Yes***
3. *Whether the judgment should be reported in the Digest? **Yes***

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition filed under Section 482, Cr.P.C.,
is for setting aside the order, dated 03.07.2010 passed by learned
Additional Sessions Judge, Faridabad, whereby the revision

petition was partly accepted and the matter was remitted to the learned Summoning Court for passing a fresh summoning order in accordance with law.

Learned counsel for the petitioners submits that he would confine his submissions to the extent that at the time of hearing the revision petition by the learned Additional Sessions Judge, Faridabad, the petitioners were not afforded an opportunity of hearing, therefore, at their back, the order prejudicial to their interest could not be passed in a criminal revision petition. In support of his contentions, he has referred to Section 401 and proviso to Section 398, Cr.P.C. He has also placed reliance on a judgment passed by Hon'ble the Supreme Court in the matter of **Manharibhai Muljibhai Kakadia and another v. Shaileshbhai Mohanbhai Patel and others**, (2012) 10 Supreme Court Cases 517 and a judgment of this Court, dated 12.02.2014 passed in CRM-M-34004-2012 tilted as '**Gopal Singh Judge and others v. State of Punjab and another**'.

Learned counsel for the respondent/complainant very fairly concedes that opportunity of hearing was not afforded to the petitioners, therefore, by setting aside the order passed by learned Additional Sessions Judge, the matter be remitted to the Revisional Court for passing the order afresh, after affording an opportunity of hearing to the petitioners.

Learned counsel for the State also owns the stand taken by the respondent/complainant.

In view of the totality of the facts and circumstances of the case, the order, dated 03.07.2010 passed by learned Additional Sessions Judge, Faridabad, and consequential proceedings emanating therefrom are set aside and the matter is remitted to the Court of learned Additional Sessions Judge, Faridabad, for deciding criminal revision No. 28 of 2009 after affording an opportunity of hearing to both the parties in accordance with law.

The parties to the *lis* shall appear before learned Additional Sessions Judge on 01.12.2015.

Since the matter is already old, therefore, it is expected that the criminal revision petition would be decided expeditiously.

(NARESH KUMAR SANGHI)
JUDGE

November 03, 2015
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