

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

**CRM-M-25187-2013 (O&M)
Date of decision : 22.01.2015**

AMRIK SINGH

...Petitioner

Versus

RAM KAUR

...Respondent

CORAM: HON'BLE MRS. JUSTICE RITU BAHRI

Present: Mr. H. P. S. Ghuman, Advocate
for the petitioner

Mr. Kuldip Sanwal, Advocate
for respondent.

RITU BAHRI, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 16.04.2013 (Annexure P-3) passed by Additional Sessions Judge, Patiala whereby the complaint pending against the petitioner was sent back to the trial court after framing charges under Sections 458, 342, 354, 500 IPC.

Earlier the petitioner approached this Court by filing CRM-M-37651 of 2012 seeking quashing of the Complaint No.268 dated 22.12.2011 registered under Sections 458/323/341/342/354/499/500 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1949 along with summoning order dated 14.08.2012 which was partly allowed and summoning of the petitioner qua Section 3 of SC & ST, Act was set aside only, whereas summoning under Sections 458/342/354/499/500 IPC was upheld

vide order dated 15.03.2013 (Annexure P-2).

After passing of the above said order, the Court of Additional Sessions Judge should have sent back the case file to the Judicial Magistrate who has the jurisdiction to try the offences under which the petitioner has been summoned.

Grievance of the petitioner is that vide order dated 16.04.2013 (Annexure P-3) the Additional Sessions Judge, Patiala, has proceeded with the trial and chargesheeted the petitioner for offences under Sections 458, 342, 354, 500 IPC and thereafter returned the matter to learned trial Court under Section 228 (a) Cr.P.C. which reads as under:

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report.

A perusal of Section 228 (a) Cr.P.C. further shows that if in a trial warrant case instituted on a police report, the Sessions Judge finds that an offence is not exclusively triable by the Court of Session, he may, frame a charge against the accused and thereafter transfer the case to the trial court.

The present case was a complaint case and the Sessions Judge was required to send back the case to the trial Court under Section 228 Cr.P.C. immediately on receipt of copy of order

(Annexure P-2) passed by this Court.

Accordingly, the order dated 16.04.2013 (Annexure P-3) passed by Additional Sessions Judge, Patiala is set aside and the trial Court is directed to proceed in accordance with law.

Petition is allowed.

22.01.2015

ashok

(RITU BAHRI)
JUDGE