

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M No.35694 of 2015

Date of Decision:-01.12.2015

Baldev Singh @ Dev Raj.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Manoj K. Sharma, Advocate for the Petitioner.

JASWANT SINGH, J (ORAL)

Prayer is under Section 482 Cr.PC for quashing of the order dated 16.03.2015 (**P-3**) whereby the revision petition in respect of respondent nos.2 to 6 was allowed and the summoning order passed by the trial Court dated 21.07.2014 was set aside. However, the summoning of the other accused was maintained.

The allegations in the complaint are in respect of taking forcible possession of the house of the complainant by the accused persons. The complaint was directed against as many 18 persons, however, after examining the pre-summoning and the complaint, the learned Magistrate vide order dated 21.07.2014 had summoned 11 accused persons including respondent nos.2 to 6, however, the remaining accused were not summoned,

as there was no prima facie sufficient evidence has come on record against them.

Seven out of those who were summoned had preferred the revision petition before the Additional Sessions Judge, Hoshiarpur and the same had been partly allowed, whereby respondent no.2 to 6 were dropped. However, the summoning of the remaining accused was maintained.

Counsel for the petitioner heard at length.

The order of the learned Additional Sessions Judge, Hoshiarpur, is based on correct appraisal of material on record. The occurrence in the present case had taken place on 09.03.2010 and according to the complainant a complaint had been given to the police as well, whereupon no action was taken and the complainant was constrained to institute the private complaint. The said complaint Ex.CW-5/A, wherein the respondent nos.2 to 6 were not named. The complaint had been filed on 30.07.2010, wherein number of persons have been arrayed as an accused. Once the evidence brought on record by the complainant in respect of respondent nos.2 to 6 itself is not sufficient in view of Ex.CW-5/A, therefore, it is not safe to summon these persons as accused to face the prosecution in the present complaint. The requirement in law is availability of sufficient material to establish prima facie involvement in the crime, whereas the same is missing at this stage of the complaint. The order passed by the Additional Sessions Judge, Hoshiarpur is justified in law and does not suffer from any illegality warranting interference under Section 482 Cr.PC.

In view of the above, finding no merit in the present petition

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under Section 482 Cr.PC, the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

December 01, 2015
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