

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1787-2010 (O&M)

Date of Decision: January 16, 2015

Hansa Singh

...Petitioner

Versus

Jaswinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Harchand Singh Batth, Advocate,
for the petitioner.

Mr. Mohit Jaggi, Advocate,
for the respondent.

NARESH KUMAR SANGHI, J. (Oral)

Challenge in this criminal revision petition is to the order dated 16.4.2010, passed by learned Additional Sessions Judge, Tarn Taran, whereby the criminal revision filed by the respondent-complainant, Jaswinder Singh, was accepted and the petitioner, Hansa Singh, alongwith other persons, namely, Piara Singh, Ajit Singh and Jagir Kaur, was ordered to be summoned to face trial for the offences punishable under Sections 120-B and 420, IPC.

A complaint alleging the commission of the offences punishable under Sections 120-B, 420, 467, 468 and 471, IPC, was presented by the respondent-complainant, Jaswinder Singh, against the petitioner, Hansa Singh, and other persons, namely, Gurdial Singh, Piara Singh, Ajit Singh and Jagir Kaur. After completing the formalities as enshrined under Sections 200 to 203, Cr.P.C., the complaint filed by the respondent-complainant was dismissed by the learned Sub-Divisional Judicial Magistrate, Tarn Taran, qua Piara Singh, Ajit Singh, Hansa Singh (petitioner) and Jagir Kaur, vide order dated 31.10.2006, and only Gurdial Singh was ordered to be summoned to face the trial for the offence punishable under Section 420, IPC.

Dissatisfied with the order dated 31.10.2006, the respondent-complainant filed a criminal revision petition before the learned Court of Session at Tarn Taran. The same was decided by learned Additional Sessions Judge, Tarn Taran, vide order dated 16.4.2010, whereby the order passed by the learned Sub-Divisional Judicial Magistrate, Tarn Taran, was set aside and the matter was remitted to the learned Trial Court for passing a fresh order after considering the preliminary evidence led by the respondent-complainant. Challenging the order dated 16.4.2010, present criminal revision petition has

been filed by the petitioner, Hansa Singh.

Learned counsel for the petitioner has confined his arguments to the effect that the petitioner was not afforded an opportunity of hearing by learned Additional Sessions Judge, Tarn Taran, while deciding the criminal revision petition filed by the respondent-complainant and, as such, it amounts to non-compliance of the provisions contained in Sections 398 and 401, Cr.P.C. In support of his submissions, he has placed reliance on the judgment of Hon'ble the Supreme Court delivered in the case of **Manharibhai Muljibhai Kakadia and another v. Shaileshbhai Mohanbhai Patel and others**, 2012 (4) R.C.R. (Criminal) 689, and a Single Bench judgment of this Court delivered in the case of **Gopal Singh Judge and others v. State of Punjab and another** (CRM-M-34004-2012, decided on 12.2.2014).

Learned counsel for the respondent very fairly concedes that before deciding the criminal revision petition, the learned revisional Court should have afforded an opportunity to the petitioner and, as such, the impugned order is not sustainable in view of the law laid down by Hon'ble the Supreme Court in the matter of **Manharibhai Muljibhai Kakadia (supra)**. He further submits that in the spirit of the above

judgment, let the matter be remitted to the learned revisional Court/Additional Sessions Judge, Tarn Taran, for deciding the revision petition afresh after affording an opportunity of hearing to the petitioner.

Learned counsel for the petitioner has also agreed to the submission made by the learned counsel for the respondent-complainant.

Heard.

In view of the submissions made by the learned counsel for the parties and the ratio of the judgment delivered by Hon'ble the Supreme Court in the case of **Manharibhai Muljibhai Kakadia (supra)** and Single Bench judgment of this Court in the case of **Gopal Singh Judge and others (supra)**, the present criminal revision petition is allowed. The impugned order dated 16.4.2010 is hereby set aside qua the petitioner, Hansa Singh, and the matter is remitted to the board of learned Additional Sessions Judge, Tarn Taran, for deciding the criminal revision petition filed by the respondent-complainant afresh after affording an opportunity of hearing to the petitioner in accordance with law. Since the matter is old one, therefore, it is expected that the learned Court below will give preference to the revision petition for decision.

The parties through their counsel are directed to appear before learned Additional Sessions Judge, Tarn Taran, on 16.2.2015.

A copy of this order be remitted to the said Court at the earliest.

January 16, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE