

**In the High Court of Punjab and Haryana at Chandigarh**

CRM-M-42247 of 2015  
Date of decision: 15.12.2015

Rajesh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr.Chandeep Singh, Advocate for the petitioner.

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**SABINA, J.**

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging order dated 29.7.2015 (Annexure P5).

Learned counsel for the petitioner has submitted that the trial Court had rightly ordered the summoning of respondents No. 2 to 11 qua commission of offence punishable under Sections 323/379/452/447/506/148/149/427 of the Indian Penal Code, 1860 ('IPC' for short) vide order dated 10.9.2013. The Court of revision has erred in setting aside the said order. At the stage of the summoning of the accused, trial Court was only required to satisfy itself as to whether a, *prima facie*, case exists against the accused for summoning them.

Petitioner has filed complaint, Annexure P3 against respondents No. 2 to 11. In support of his case, petitioner led his preliminary evidence. Admittedly, Magistrate had sought report from

the Police under Section 202 Cr.P.C. Vide order dated 10.9.2013, Magistrate ordered the summoning of accused Nos. 2 to 11 qua commission of offence punishable under Sections 323/379/452/447/506/148/149/427 IPC.

A perusal of the order dated 10.9.2013, Annexure P4 reveals that while passing the said order, Magistrate has not made any reference to the reports submitted by the Police. A perusal of the impugned order reveals that the Magistrate had called for the police reports vide order dated 6.6.2011. The Station House Officer, Police Station Kasola had submitted reports dated 7.7.2011 and 9.1.2012 after making due inquiry and had reported that the allegations levelled by the complainant were false. However, the Magistrate, while passing the summoning order, has not even discussed the reports submitted by the Police in pursuance to the order passed by the Magistrate. It has been rightly observed by the Court of Revision that the reports submitted by the Police were not binding on the Magistrate, however, the Magistrate was required to at least consider the said reports before passing the summoning order, especially, where there were long standing civil litigation pending between the parties. The reasons given by the Court of Revision, while allowing the revision petition, filed by respondent No.2 against the summoning order are sound reasons and call for no interference.

Dismissed.

**(Sabina)  
Judge**

**December 15, 2015**

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