

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M- 35055 of 2013 (O&M)
Date of Decision: January 08, 2016.

Abdul Aziz

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr.V.K.Gupta, Advocate
for the petitioner.

Mr.S.K.Yadav, DAG, Haryana.

Mr.Robin Dutt, Advocate
for respondent Nos. 2 & 3.

Mr.Mahavir Sandhu, Advocate
for respondent No.8.

Rajan Gupta, J (Oral)

Challenge in this petition is to order dated 23.4.2013 passed by Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby complaint of the petitioner has been dismissed.

Order has been impugned on the ground that same is erroneous, in as much as, the court dismissed the complaint in entirety though there was no such challenge before the court. It appears that petitioner filed a complaint alleging that certain documents were fabricated and produced before the Allahabad Bank by the accused. On the basis of those documents, certain amount was withdrawn from the bank. Before the trial court, preliminary evidence was led. Documents Ex.C1 to C21 were produced by the complainant. He himself deposed as CW/1 and examined one Vishnu Chawla CW/2. After being satisfied that

prima facie case was made out, the trial court decided to summon accused Nos. 1 to 3. Dissatisfied, petitioner preferred a revision petition before Additional Sessions Judge, Yamuna Nagar praying that other accused be also summoned to face trial. Admittedly, there was no challenge to the summoning order by the summoned accused. The revisional court while dealing with the application moved by the petitioner went into the entire controversy and gave a finding that ingredients of offences under Sections 420, 467, 468, 471, 120-B IPC were not made out. It thus, dismissed the complaint in entirety.

In my considered view, order dated 23.4.2013 is unsustainable. The trial court had merely summoned some of the accused to face trial on the basis of preliminary evidence. It is inexplicable how the revisional court came to the conclusion that ingredients of offences were not made out. It lost sight of the fact that trial court merely issued the process for appearance of accused (respondent Nos. 1 to 3). Besides, it was only to consider the application moved by the complainant for summoning other accused. Without assigning any reason for going beyond the prayer in the application in the revision petition, it decided to dismiss the complaint by making sweeping observations. The impugned order is set-aside for the aforesaid reasons. The petition is allowed in these terms.

(Rajan Gupta)
Judge

January 08, 2016.
BB