

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

CRM-M-3291 of 2015

Date of Decision: January 22, 2016

Jasvir Singh

...Petitioner

Versus

Karam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. Nakul Sharma, Advocate
for the respondent.

FATEH DEEP SINGH, J.

A criminal complaint titled as **Karam Singh vs. Jasvir Singh son of Hardial Singh and others**, latter the present petitioner was filed before the learned Judicial Magistrate, Jagraon under Sections 420,467,468,471,120B IPC Annexure P/1. Learned Magistrate vide summoning orders dated 11.7.2014 Annexure P/2 summoned the accused No.1,2 and 3 and it is against the same petitioner before this Court has invoked the jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of summoning orders as well as complaint.

Heard, learned counsel for the parties. Learned counsel for the petitioner squarely accepts that against a summoning order revision lies in terms of Section 397 Cr.P.C. if there is any illegality, impropriety or incorrectness of these findings and furthermore,

Code provides provision by way of Section 245 Cr.P.C. for the learned Magistrate to consider the case, if any, of the accused and in case the Magistrate considers the reasons to be recorded that no case is made against the accused could discharge them. Admittedly, no such recourse has been adopted by the petitioner. Though, to buttress his argument learned counsel for the petitioner has cited judgments to drive home the point that when an alternative remedy is available to the accused even then he has right to invoke the jurisdiction of this Court in terms of Section 482 Cr.P.C. and which is controverted on behalf of the respondent who has cited judgment in case **Balbir Singh vs. Gurdial Singh 2002(1) RCR (Criminal) 518.**

Appreciating the submissions, it needs to be reiterated here that expression “interlocutory order” in Section 397 (2) Cr.P.C. has been used in a restricted sense and not in a broad artistic sense. Reliance placed on **Amar Nath etc. vs. State of Haryana 1977 AIR (SC) 2185.** However, in a subsequent pronouncement in case of **Madhu Limaye vs. State of Maharashtra 1978 SCR (1) 749** it was held by the Hon'ble Apex Court as well as in ratio laid down in **V.C. Shukla vs. State 1980 SCR(2) 380** holding out that summoning order is not an interlocutory order but inter-mediatory or quasi-final order and, thus, revision lies in terms of Section 397 Cr.P.C. As has been laid down in **Rajendra Kumar Sitaram Pande vs. Uttam 1999(1) RCR (Criminal) 800; Balbir Singh vs. Gurdial Singh 2002 (1) RCR (Criminal) 518; Karnail Singh vs. Gurdial Kaur 2002(1) RCR (Criminal) 800** wherein all these ratios it has been held that against a summoning order only a revision lies and petition for quashment does not lies and that in later views reported in **Mohit @ Sonu vs. State of U.P. and others 2013(3) RCR (Criminal)673** and **2013(4) RCR (Criminal) 899 Urmila Devi vs. Yudhvair Singh** their Lordships of the

Hon'ble Apex Court subsequent to the views cited by the petitioner by way of **M/s Pepsi Foods Ltd. vs. Special Judicial Magistrate 1997(4) RCR (Criminal) 761; Arun Jha and another vs. State of Haryana and another 2006(1) RCR (Criminal) 300; Dhariwal Tobacco Products Limited and others vs. State of Maharashtra and another 2009(1) RCR (Criminal) 677** have held that when there is a specific remedy provided by way of appeal or revision then inherent powers under Section 482 Cr.P.C. cannot or should not be resorted to and it is only as a rarity when there is no remedy provided by the Code such a redressal can be exercised to advance the cause of justice and that too exceptionally.

Since the petitioner has directly invoked the jurisdiction of this Court under Section 482 Cr.P.C., to the mind of this Court, the instant petition is not maintainable and is dismissed as such.

**(FATEH DEEP SINGH)
JUDGE**

January 22, 2016
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