

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

CRM-M-33063-2014

Date of decision: February 19, 2016

Anil Soni & others

...Petitioners

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sunny Bhardwaj, Advocate for the petitioners.
Mr. Arun Luthra, AAG, Haryana.

Rajan Gupta, J.

Petitioners have impugned order dated 13.01.2014, passed by Additional Sessions Judge, Panchkula, primarily on the ground that no opportunity of hearing was granted to them by the revisional court while setting-aside the order passed by the Judicial Magistrate 1st Class, Panchkula.

I have heard learned counsel for the parties and given careful thought to the facts of the case. It appears, a complaint was lodged by respondent No.2 seeking to summon the accused for offence under sections 148, 149, 392, 427, 452, 323, 324, 342, 506 and 34 IPC and Section 7.13 (1) (D) and 13 (2) of Prevention of Corruption Act. He examined seven witnesses in preliminary evidence. The court, however, did not find sufficient grounds to proceed against the accused and dismissed the complaint. Aggrieved, complainant preferred a revision petition before the trial court. After hearing the petitioners, the revisional

court remitted the matter to Magistrate for reconsideration observing that offence under sections 147, 323 and 506 IPC were made out against the accused. Consequently, Magistrate passed order dated 6.5.2015 summoning the accused to face trial for commission of offence under sections 147, 149, 323, 506 IPC.

I am of the considered view that opportunity of hearing ought to have been granted by the revisional court to the petitioners before setting-aside order passed by the Judicial Magistrate, in view of judgment reported as *Manharibhai Muljibhai Kakadia & another Vs. Shaileshbhai Mohanbhai Patel & Ors., 2012 (4) R.C.R. (Crl.) 689*. Consequently, orders Annexures P-7 and P-8 are hereby set-aside. Matter is remitted to the court of Additional Sessions Judge, Panchkula for decision afresh after affording opportunity of hearing to the parties.

Allowed in the above terms.

(RAJAN GUPTA)
JUDGE

February 19, 2016
'Rajpal'

Whether to be referred to reporter? Yes / No