

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

**1. CRM-M No.37637 of 2015
Date of Decision: February 16, 2016**

Rajpal Sharma Petitioner

vs.

Balraj Sharma and others Respondents

**2. CRM-M No.38334 of 2015
Date of Decision: February 16, 2016**

Rajpal Sharma Petitioner

vs.

Balraj Sharma Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. D.S. Pheruman, Advocate for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

This order of mine shall dispose of CRM-M Nos.37637 and 38334 of 2015 filed by the complaint-petitioner, arising out of the same judgment.

In a complaint case bearing No.3141, dated 14.06.2010, filed under sections 420, 467, 468, 471 and 120-B IPC by the present petitioner, vide order dated 07.05.2014 passed by learned Judicial Magistrate 1st Class, Amritsar, accused Nos.1 to 5 were summoned but accused No.6 was not summoned. The complainant and one of the accused, namely Balraj Sharma filed separate revisions against

the said order, which were disposed of by the learned Addl. Sessions Judge, Amritsar vide a common order dated 07.05.2015 and it was held that in the absence of material evidence, accused No.6 was rightly not summoned and qua accused Nos.1 to 5, the order was set aside and the case was remanded to the trial court for a fresh decision after taking into consideration the facts and circumstances of the present case.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

Learned counsel for the petitioner contends that under Section 398 Cr.P.C., such order could not be passed.

However, it comes out that this order was passed exercising the revisional powers under Section 397 and 399 Cr.P.C., which confer same powers on Sessions Court as exercised under Section 401(1) Cr.P.C. The order was passed in revision. Therefore, while exercising the revisional powers under Section 482 Cr.P.C., this court does not find any ground to interfere in the same. Let trial court pass the fresh order in accordance with law.

Since the revisional court has applied mind to the facts of the present case, therefore, this petition filed under Section 482 Cr.P.C. is nothing but revision against the revision and this Court does not find any ground to interfere in the same.

Hence, both the petitions stand dismissed.

(KULDIP SINGH)
JUDGE

February 16, 2016
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