

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M- 8946 of 2011

Date of Decision: April 26, 2016.

Devinder Singh

....Petitioner

Versus

State of Punjab.

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Anil Kumar Garg, Advocate
for the petitioner.

Ms.Rajni Gupta, Addl.A.G, Punjab

Rajan Gupta, J (Oral)

Challenge is to order dated 14.11.2009 passed by Sessions Judge, Sangrur whereby cognizance of offences under Sections 465, 467, 468, 471, 511 and 120-B IPC was taken by the court and matter remitted to Sub Divisional Judicial Magistrate, Malerkotla for proceeding in accordance with Section 228(1) Cr.P.C.

Learned counsel for the petitioner submits that order is unsustainable as no notice was issued to the accused (petitioner herein) before impugned order was passed. He further submits that matter be remanded to the same court for decision afresh.

Learned State counsel has opposed the prayer. She, however, does not dispute the fact that notice was not issued to the accused before the impugned order was passed.

I have heard learned counsel for the parties.

It appears that case was registered against the petitioner by the

Vigilance Bureau. Allegations therein are that loan was disbursed to the loanee by the accused in connivance with each other without verifying the revenue record and other particulars of the land sought to be mortgaged with the bank. Pursuant to FIR, investigation ensued. An untraced report was filed but same was not accepted by the court. As a result, matter was further investigated. Again the cancellation report was submitted. The court considered the same and passed the impugned order, taking cognizance of offences as mentioned in the foregoing para. Perusal of the order shows that no notice was issued to the accused-petitioner before passing the impugned order. They were thus deprived of the opportunity to present their stand before the court.

Under the circumstances, impugned order is hereby set-aside. Matter is remitted to the said court for decision afresh after hearing the parties. Petition is allowed in these terms.

(Rajan Gupta)
Judge

April 26, 2016.
BB