

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40634 of 2015

Date of Decision: 24.05.2016

Rajinder Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE KULDIP SINGH.

**Present: Mr.P.S.Ahluwalia, Advocate,
for the petitioners.**

Mr.Sidakmeet Singh, AAG, Punjab.

**Mr.H.B.S.Baidwan, Advocate
for respondent No.2.**

- 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)

Petitioners are seeking quashing of criminal complaint No.16/1.9.2011/27.1.2014, titled as “Ashok Kumar Versus Rajinder Singh and others” (Annexure P-1) under Section 302 read with Section 34 IPC and summoning order dated 19.09.2015(Annexure P-2) passed by the Chief Judicial Magistrate, S.A.S.Nagar, Mohali.

Suffice it to say that Ashok Kumar has filed a criminal complaint under Section 302 read with Section 34 IPC before the Chief Judicial Magistrate, S.A.S.Nagar, Mohali, in which summoning order (Annexure P-2) was passed, whereby the present petitioners have been

summoned to face trial under Section 302 read with Section 34 IPC.

According to the learned counsel for the petitioners it comes out from the record that the learned Chief Judicial Magistrate had called for report of the police under Section 202 Cr.P.C. and the inquiry report (Annexure P-4) was accordingly submitted by the police. The learned Chief Judicial Magistrate without considering the said inquiry report mentioned that the statements recorded by the police during investigation of the matter and even police report corroborates the version of the complainant.

I am of the view that when the report under Section 202 Cr.P.C. is called for, the learned Chief Judicial Magistrate is duty bound to consider the same. Either he may agree with the report or disagree with it, but the report has to be discussed and reasoning has to be given in this regard. In the present case, no reasoning has been given. As such, the impugned order suffers from said illegality. Therefore, the impugned summoning order dated 19.09.2015 (Annexure P-2) is hereby set aside. The learned Chief Judicial Magistrate is directed to pass a well-reasoned order by considering the inquiry report (Annexure P-4) submitted by the police under Section 202 Cr.P.C., and also the evidence led by the complainant. However, it is upto the learned Chief Judicial Magistrate, whether he agrees with the report or not.

The petition is allowed in the above noted extent.

May 24, 2016
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(KULDIP SINGH)
JUDGE