

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-42208 of 2014
Date of decision: April 04, 2016.

Harpal Singh

... **Petitioner**

v.

State of Punjab and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. A.K. Khunger, Advocate for the petitioner.

Mr. P.S. Paul, Deputy Advocate General, Punjab.

Mr. Peeush Gagneja, Advocate for respondent No.2.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Impugned in the present petition is the order dated 11.11.2014 (Annexure P-3) passed by learned Additional Sessions Judge, Fazilka vide which the order dated 11.4.2013 passed by learned Judicial Magistrate 1st Class, Abohar, dismissing the complaint filed by Harjinder Singh respondent No.2, was set aside and the case was remanded to the trial court to pass a fresh order considering the facts and circumstances of the case.

I have heard Learned Counsel for the parties.

It comes out that the criminal complaint was filed before the lower court. Learned Magistrate, after considering the evidence, dismissed the complaint. The matter was taken in revision before learned Additional Sessions Judge and learned Additional Sessions Judge made reference to certain ambiguities in the order and consequently set aside the same.

The only part of the order which is troubling the present petitioner-accused is that the learned revisional court in para 10 of the judgment has observed that there are sufficient grounds to summon the accused to face the trial. I am of the view that at the time of summoning the accused, only prima facie case is to be seen. Whether there are sufficient grounds to proceed against the accused is to be seen by the Magistrate. Learned Additional Sessions Judge has erred in holding that there are sufficient grounds to summon the respondent/accused so as to leave no scope for the lower court to take a contrary view. As such, the petition is partly allowed to the extent that the order of learned Additional Sessions Judge so far as observing that there are sufficient grounds to summon the accused to face trial, are set aside. The lower court is directed to hold further inquiry and after examining the entire evidence, pass fresh orders in accordance with law.

The petition stands disposed of accordingly.

April 04, 2016.
kadyan

[Kuldip Singh]
Judge