IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM NO. M-4608 OF 2015(O&M)
DECIDED ON : 28.01.2016

Raju and others

...Petitioners

versus

Angrejo

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJAN GUPTA

Present : Mr. Vishal Yadav, Advocate for
Mr. Ajay Ghangas, Advocate,
for the petitioner.

Mr. Pankaj Midha, Advocate,
for the respondent.

RAJAN GUPTA, J. (ORAL)

The present revision petition is directed against the order passed by revisional Court, whereby revision petition preferred by respondent has been allowed.

It appears that complainant preferred a complaint before Judicial Magistrate Ist Class alleging that he was assaulted by accused who were armed with various weapons. In support of her case, she herself stepped into the witness box and examined three witnesses in preliminary evidence. After considering the

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preliminary evidence, Judicial Magistrate Ist Class dismissed the complaint vide order dated 31.01.2013. Aggrieved, complainant approached the Court of Additional Sessions Judge, Panipat. Vide order dated 17.08.2013, revisional Court accepted the revision petition and directed that petitioners be summoned to face trial for offences punishable under Sections 323/452/506 read with Section 34 of the Indian Penal Code.

Petitioners have posed a challenge to said order on the ground that no opportunity of hearing was provided to the petitioners before passing the impugned order. Learned counsel for the petitioners has relied upon judgment reported as ***"Manharibhai Muljibhai Kakadia and another vs. Shaileshbhai Mohanbhai Patel and others" 2012 (4) RCR (Criminal) 689***.

Learned counsel for the respondent has opposed the prayer and submits that only preliminary evidence has to be seen at the stage of summoning of accused.

On due consideration of the matter, I am of considered view that an opportunity of hearing ought to have been afforded to the petitioners before setting aside order passed by Judicial Magistrate Ist Class dismissing the complaint. There can be no dispute with proposition of law laid down in ***Manharibhai Muljibhai Kakadia and another's case (supra)***.

Under the circumstances, petition is allowed. Impugned order is set aside. Matter is remitted to same Court for

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decision afresh after hearing the parties.

Disposed of.

(RAJAN GUPTA)
JUDGE

JANUARY 28, 2016
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Referred to the reporter : Yes

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