

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

**1. C.R.M-M No.8215 of 2014 (O&M)
Date of Decision : 11.07.2016**

Vikram

..... Petitioner

versus

Sunil Devi

..... Respondent

2. C.R.M-M No.12076 of 2014 (O&M)

Rattan Singh and others

..... Petitioners

versus

Sunil Devi

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Akshay Jindal, Advocate
for the petitioners.

Mr. Akashdeep Singh, Advocate
for the respondent.

Mr. Kuldeep Tiwari, Additional A.G., Haryana.

1. Whether Reporters of local papers 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?

AJAY TEWARI, J. (Oral)

This order shall dispose of aforesaid two petitions by this
common order since the issues involved are same.

These two petitions have been filed against the order of the revisional Court whereby an order dismissing the complaint was set aside and the matter was remanded back for fresh decision on the issue. The petitioners' contention is that before taking recourse to this course of action it was incumbent upon the revisional Court to have issued notice to the petitioners-accused and such order could not have been passed without hearing them. He has argued that the revisional Court has clearly transgressed the authority of law because by the impugned order the right of the petitioners has been taken away without affording them any hearing. He has further argued that as per Section 399 (2) Cr.P.C. the provisions of Sub Section 2, 3, 4 & 5 of Section 401 Cr.P.C have been made applicable to the first revisional Court. Section 401 (2) Cr.P.C. is in the following terms :-

“(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.”

Learned counsel has further argued that even under Section 398 Cr.P.C. (where a power to order further inquiry has been given to the revisional Court) it is incumbent upon the revisional Court to issue notice to the accused. Learned counsel for the complainant and learned Additional Advocate General have had to accept this statutory dispensation.

In the circumstances, the impugned order (Annexure P-2) is set aside and the matter is remanded back to the revisional Court for taking a fresh decision on the issue after hearing the petitioners.

Parties through their counsel are directed to appear before the revisional Court on 22.08.2016.

Both the petitions are disposed of.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

July 11, 2016
pooja sharma-I

(AJAY TEWARI)
JUDGE