

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

Sr. No.126

CRM No.M-9267 of 2016

Date of decision : March 16, 2016

Dayal and others

...Petitioners...

versus

Mahender Singh

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Suresh Kumar Kaushik, Advocate,
for the petitioners.

JASPAL SINGH, J.

The instant petition has been preferred under Section 482 of the Code of Criminal Procedure for quashing of summoning order dated February 16, 2016 (Annexure P-5) passed by the learned Judicial Magistrate, 1st Class, Mewat in Criminal Complaint No.569 dated October 16, 2012 (Annexure P-1), titled as “Mahender Singh Vs. Dayal & Others”, whereby the petitioners have been summoned to face trial under Sections 148, 149, 323, 325 of IPC for March 21, 2016; as well as order dated October 20, 2015 (Annexure P-4) passed by the learned Additional Sessions Judge, Mewat, whereby order dated August 28, 2014 (Annexure P-2) passed by the learned Judicial Magistrate, 1st Class, Mewat, dismissing the aforesaid complaint, has been set aside and the trial Court was directed to

reconsider the matter and the complainant was directed to appear before the trial Court on November 16, 2015.

By now, it is well settled that while acting under Section 397 Cr.P.C., the revisional Court has a limited jurisdiction to consider the correctness, legality or propriety of any finding recorded or passed by the learned Magistrate. The revisional Court is not empowered to direct the trial Court to summon person(s) but can only advise the concerned Court to reconsider and re-appreciate the evidence available on file, in view of the observations made by him/her.

A perusal of impugned order dated October 20, 2015 reveals that the trial Court/Magistrate has been directed to see as to which of the parties is aggressor one on the basis of evidence available on file and there is no specific order passed by the revisional Court that the petitioners be summoned as accused or additional accused.

This Court has also gone through the entire impugned order dated October 20, 2015. There is no specific order passing any summoning order.

The instant petition is disposed of with a direction to the trial Court/Magistrate who is seisin of the matter to reconsider and re-appreciate the entire evidence available on file and then to pass an order summoning accused if it is satisfied that there is prima facie evidence to summon the petitioners or any other person.

If any of the respondent(s) is aggrieved of the order

passed by this Court, he/they would be at liberty to approach this Court.

Copy of this order be sent to the concerned Court for compliance.

March 16, 2016

Ankur

**(JASPAL SINGH)
JUDGE**