

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

MAMTA MALHOTRA
2016.06.03 17:02

Criminal Revision No.1898 of 2015 (O&M)

Date of decision: 31st May, 2016

Kulwant Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Jasmer Singh Verka, Advocate,
for the petitioner.

Mr. Arshdeep S.Kler, DAG, Punjab,
for the respondent(s)-State.

Respondent No.2 Gurmeet Singh in person.

INDERJIT SINGH, J.

Petitioner Kulwant Singh has preferred the instant revision petition against respondents-State of Punjab and another, under Section 401 Cr.P.C., challenging the impugned judgment dated 30.10.2014, passed by the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur.

I have heard learned counsel for the petitioner, learned State counsel as well as respondent No.2, who has appeared in person before this Court today, and have gone through the record.

From the record, this Court finds that complainant Gurmeet Singh filed a complaint against petitioner Kulwant Singh under Sections 497, 506 IPC. The learned Judicial Magistrate Ist Class, Batala, vide judgment dated 13.02.2014, dismissed the said complaint. Against the said judgment, the complainant filed an appeal, which was accepted vide judgment dated 30.10.2014, passed by the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur and the matter was remanded back to the learned Judicial Magistrate/trial Court with direction to proceed with the case. The learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur also held that a

prima facie case is made out to summon the accused under Section 506 IPC.

After hearing the learned counsel for the parties and after going through the record, this Court finds that the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur has not given any notice to the petitioner and adverse order has been passed against him without giving notice to him. As per law, no adverse order can be passed against any person without giving notice to him/her. Otherwise also, against the judgment dated 13.02.2014, passed by the learned Judicial Magistrate Ist Class, Batala, dismissing the complaint of the complainant-respondent No.2, revision petition lies and the petitioner filed appeal. Even if it is taken that it is a technical defect and the proceedings can be treated as revision even then the notice to petitioner Kulwant Singh was necessary as the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur has passed the order regarding summoning of Kulwant Singh without giving him notice in the proceedings before it. Therefore, the order dated 30.10.2014, passed by the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur, is illegal and is set aside. The matter is remanded back to the learned Addl. Sessions Judge (Adhoc), Fast Track Court, Gurdaspur to firstly decide regarding the maintainability of the appeal or revision before it and if the proceedings are maintainable then to decide the matter on merit after hearing the learned counsel for the parties. The parties are directed to appear before the learned Sessions Court/Successor Court on 18.07.2016.

Accordingly, the instant revision petition stands accepted.

31st May, 2016
mamta

(INDERJIT SINGH)
JUDGE