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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23440 of 2014 (O&M)

Date of decision: 17.05.2017

Jeet Ram and others

...Petitioners

Versus

Hukam Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikas Sonak, Advocate for
Mr. Ashish Yadav, Advocate
for the petitioners.

Mr. Tapan Kumar, Advocate
for the respondent.

JITENDRA CHAUHAN, J. (ORAL)

The present petition under Section 482 Cr.P.C. has been filed for quashing the impugned order dated 28.03.2014 passed by learned Additional Sessions Judge, Rewari (Annexure P-6) as well as the order dated 09.12.2011 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Rewari, whereby, the petitioner/revisionists have been summoned under Sections 148, 323, 325 and 506 read with Section 149 of the Indian Penal Code in a complaint case filed by respondent-Hukam Singh.

Learned counsel for the petitioners submits that learned Judicial Magistrate has wrongly summoned the petitioners in the complaint filed by the respondent-complainant Hukam Singh as the said complaint is a counter blast to FIR No.103, dated 18.07.2006 lodged by petitioner No.1 against respondent-complainant Hukam Singh wherein he, along with co-accused stands convicted by the trial Court.

On the other hand, learned counsel for the respondent submits that the respondent along with other persons were caused injuries by the

petitioners as stated by the witnesses and specifically noticed in the complaint. The learned Judicial Magistrate 1st Class, Rewari, on the basis of evidence led, has rightly summoned the petitioners/accused and the said finding stands affirmed by the learned Additional Sessions Judge, Rewari.

I have heard learned counsel for the parties and gone through the case file.

In paras 19 and 20 of the order dated 28.03.2012 learned Additional Sessions Judge, Rewari has observed as under:-

“19. At this stage of summoning order under Section 204 Cr.P.C. the trial Court is only required to go through the preliminary evidence with a view to see if the matter should proceed further, it has been held in Shangara Singh Vs. Joginder Singh, 2000 (1) RCR (Criminal) 123 that;

at the stage of summoning of the accused for trial, only prima facie case has to be seen. Magistrate cannot dismiss the complaint by making microscopic scrutiny of evidence at that stage.

Further in Sibu Vs. Mohinder Singh, 2002 (1) RCR (Criminal) 165 it has been held that;

at the time of issuing of process against the accused, a prima facie case is to be seen at that stage it is not to be seen whether the accused is to be convicted or to be acquitted.

Even otherwise, in dealing with revision, the Court has a limited jurisdiction, which can only be exercised in case of flagrant miscarriage of justice. Reliance in this regard, may be placed upon State of Orissa Vs. Nakula Sahu and others Supreme Court cases (Criminal) 283 wherein it is held that;

the power of revision has to be exercised only in exceptional cases when there is a glaring defect in the procedure or there is an error on the point of law which has resulted in flagrant miscarriage of justice. Such is

not the situation in the present complaint.

20. *In the present case, admittedly, an FIR was registered on 18.07.2006 which as per the report under Section 202 Cr.P.C. was registered due to the more injuries suffered by Jeet Ram and others but learned trial Court found prima facie evidence and passed the order for summoning the revisionists. Even though the respondents may have a deference, the same can be produced during trial and the matter is to be decided at the appropriate stage on merits. The revisionists will get ample opportunities to disprove the evidence led by respondent/complainant. The delay in filing the complaint and the contradictions pointed out by learned counsel for revisionists are also required to be seen and dealt with the merits.”*

In **Prem vs. Budh Ram 2000 Criminal Law Journal 790**, it has been held that “where a reasoned summoning order is passed by the trial Magistrate and the Sessions Judge upholds it and refuses to interfere under Section 397(2) of the Code, after hearing the arguments, the High Court would not interfere under Section 482 of the Code.”

In **Ganesh Narayan Hegde Vs. S. Bangarappa and others 1995(2) RCR (Criminal) 373**, Hon'ble the Supreme Court held as under:-

“A second revision does not lie under the code, and though an application under Section 482 of the Code of Criminal Procedure is not barred, the High Court cannot sit and act as the second Revisional Court while exercising the powers under Section 482. This provision can be invoked only where there is an abuse of process of Court or otherwise to secure the ends of justice.”

This is the second revision under the guise of Section 482 Cr.P.C., thus, this court finds that the impugned summoning order has been passed after proper analysis of the facts on record. It is to be noticed that

the names of the petitioners have been specifically mentioned in the complaint at initial stage and reiterated by the prosecution during the course of trial.

The learned counsel for the petitioners has failed to refer to any evidence and circumstances, on the basis of which the prima facie satisfaction reached by the trial Court and the revisional Court can be said to be suffering from any illegality or perversity.

In view of the above, this Court does not find any ground to interfere with the well reasoned orders of summoning as well as revision.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

17.05.2017

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Whether speaking /reasoned
Whether reportable

Yes
No