

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

CRL. MISC. No.M-31014 OF 2016
DATE OF DECISION : 15th MARCH, 2017

Khalil & others

.... **Petitioners**

Versus

Wahid & another

.... **Respondents**

CRL. REV. No.450 OF 2017

Arshad & others

.... **Petitioners**

Versus

State of Haryana

.... **Respondent**

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Atul Yadav, Advocate
 for the petitioners in CRM-M-31014-2016.

 Mr. Sarfraj Hussain, Advocate
 for petitioners in CRR-450-2017 &
 for respondent No.1 in CRM-M-31014-2016.

 Mr. G. S. Salwara, Deputy Advocate General, Haryana.

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A. B. CHAUDHARI, J. (ORAL)

CRM-8822-2017

The application is allowed and Annexure R-1 and R-2 are taken on record, subject to all just exceptions.

CRL. MISC. No.M-31014 OF 2016 & CRL. REV. No.450 OF 2017

Rule heard forthwith with consent of the counsel for the rival parties.

This Court was stuck up on the issue as to whether a protest petition filed in response to the cancellation report by the police could be

converted and treated as the complaint under Section 199 and 200 Cr.P.C.

Learned counsel for the respondents has shown the judgment of three Judges' Bench of Supreme Court in the case of ***Kishore Kumar Gyanchandani Versus G. D. Merotra & Anr., 2003(2) RCR (Criminal) 594***, followed in numbers of other judgments. Having gone through the said judgments, I am satisfied that the protest petition can be converted into complaint by the Magistrate and can be processed further. That is what exactly has been done in the instant case.

Learned counsel for the petitioners then submitted on merits that the police had made earlier investigation into the FIR in question and found that the FIR filed by the rival side was wrong. He, therefore, submits that whatever material now has been tendered against the petitioner cannot be considered.

Upon perusal of the record I find that the learned Magistrate recorded the statement of the witnesses and thereafter came to the conclusion to issue summons to the petitioner at the behest of the petitioner. The said order has been confirmed by the revisional Court. This court does not want to go into the merits of the matter since none of the parties should be prejudiced.

The learned counsel for the petitioners submits that in the earlier FIR the petitioners were found innocent and the FIR lodged by the respondents was found to be incorrect or false cannot be accepted at this stage as the same is matter of trial and it is for the trial Court to come to the conclusion upon appreciation of the evidence.

In that view of the matter, the petitions are disposed of reserving the liberty in favour of both the parties to the petitions to raise the points as available to them in law, before the trial Court.

In the opinion of this Court since the occurrence is of same date and time, both the trials ought to be held simultaneously.

The learned counsel for the State submits that the trial in the case of the respondents has reached almost on final stage. Even if that is so, this Court is of the opinion that since the date and time of the occurrence is same, in order to avoid any conflicting and contradictory finding, the trial ought to be held simultaneously even if the trial in the case of respondents has gone ahead. The trial Court would take appropriate steps.

Accordingly both the petitions i.e. CRL. MISC. NO.M-31014 OF 2016 and CRL. REV. NO.450 OF 2017 are disposed of.

15th March, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned	:	Yes	No
Whether Reportable	:	Yes	No

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