

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

CRM No.M-37197 of 2010 (O&M)
Date of Decision: February 21, 2017

Bahadur Singh and another

...Petitioners

VERSUS

State through Govt. Food Inspector, PCMS-I, PHC, Sauja, Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kapil Aggarwal, Advocate
for the petitioners.

Mr.Deep Singh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of complaint No.290 dated 17.10.2007 titled as 'State vs. Bahadur Singh and Gurpreet Singh' under Section 16 of the Prevention of Food Adulteration Act and order of summoning i.e. order of notice dated 15.05.2009, whereby notice has been issued to accused-petitioners along with all subsequent proceedings arising therefrom.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the perusal of the record of this case as well as of lower

Court record, I find that after filing of the complaint, it was fixed for preliminary evidence. Then notice to the complainant was issued time and again and as per order dated 17.12.2008, fresh notice was issued to the complainant for 05.05.2009. On 05.05.2009, the trial Court passed the order "Received by transfer. It be registered. New notice to the accused be issued for 09.07.2009." Nothing has been mentioned, as to why the notice has been issued to the accused when the case was fixed for preliminary evidence and notices were issued earlier to the complainant only on so many dates.

Therefore, from the perusal of the record, I find that no proper summoning order has been passed against the accused in the complaint case and only on this ground, the order dated 05.05.2009 issuing notice to the accused is set aside. The matter is remanded back to the trial Court to proceed in this case, as per law.

Therefore, the present petition stands allowed accordingly. The petitioners need not to appear before the trial Court, till any fresh summoning order is passed by the trial Court against them.

February 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No