

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-38393 of 2017

.....

Date of decision:12.10.2017

Vinod Kumar

.....Petitioner

v.

Radhey Shyam and another

.....Respondents

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(2) Criminal Misc. No.M-38397 of 2017

.....

Vinod Kumar

.....Petitioner

v.

Narender Singh (Retd. Naib Tehsildar) and another

.....Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

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**Present: Mr. Gaurav Gupta, Advocate for the petitioner.**

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**Inderjit Singh, J.**

This order will dispose of the above mentioned two petitions filed under Section 482 Cr.P.C. for setting aside the orders dated 23.8.2017 (Annexure-P.7) passed by the learned Additional Sessions Judge, Faridabad, whereby criminal revision petitions No.30 and 61 of 2016 filed by the respondents have been allowed and proceedings against the respondents have been dropped in complaint case No.641 of 19.9.2013 filed under Sections 409, 420, 467, 468, 471, 120-B and 506 IPC.

I have heard learned counsel for the petitioner and have gone

through the record.

From the record, I find that the learned Additional Chief Judicial Magistrate, Faridabad, vide impugned order dated 6.9.2014 (Annexure-P.3) summoned the accused Radhey Shyam (Retired Tehsildar, DRO) in the complaint case, to face trial. Vinod Kumar filed complaint against Om Parkash and others-respondents under Sections 166, 167, 409, 420, 467, 468, 471, 506 and 120-B IPC at Police Station City Ballabgarh. The learned Additional Chief Judicial Magistrate, Faridabad, summoned the accused on the basis of preliminary evidence except accused No.9, who had died. Then vide order dated 17.9.2016 (Annexure-P.5), the learned Additional Chief Judicial Magistrate, Faridabad, passed the order accepting the application filed under Section 319 Cr.P.C. and accused Gyani Ram-Retd. Tehsildar, Ballabgarh, Narender Singh-Retd. Naib Tehsildar and Radhey Shyam-Retd. Tehsildar DRO, Ballabgarh to face trial under Sections 409, 420, 468, 471, 506 read with Section 120-B IPC.

A perusal of the orders passed by the learned Additional Chief Judicial Magistrate, Faridabad, shows that the petitioner has levelled allegations against these persons. Even in the report under Section 202 Cr.P.C. it was transpired that the disputed certificates were issued by the proposed accused persons only. Their statements were also recorded during the investigation and they have admitted that these certificates were issued by them and these were carrying the signatures of the present petitioner. The Court on the basis of this inquiry under Section 202 Cr.P.C. summoned accused Gyani Ram-Retd. Tehsildar, Ballabgarh, Narender Singh-Retd.

Naib Tehsildar and Radhey Shyam-Retd. Tehsildar DRO, Ballabgarh to face trial. Aggrieved from this summoning order, Radhey Shyam and Narender Singh filed the revision petitions which were accepted by the learned Additional Sessions Judge vide orders dated 23.8.2017 and dropped the proceedings qua these persons Radhey Shyam and Narender Singh. Aggrieved from these orders, the complainant Vinod Kumar filed these petitions for quashing the impugned orders.

I have heard learned counsel for the petitioner and have gone through the record. A perusal of the record specially the complaint shows that in the complaint Radhey Shyam and Narender Singh have not been made as accused.

Learned counsel for the petitioner-complainant also admitted that there were no allegations of any type against Radhey Shyam and Narender Singh in the complaint. It is also admitted by the learned counsel for the petitioner-complainant that in the complaint the complainant has not prayed to summon these persons which means that there were no allegations levelled in the complaint against these respondents Radhey Shyam and Narender Singh. Secondly, I find that the application under Section 319 Cr.P.C. can be filed only after some evidence is produced on the record. The Court has asked for the report under Section 202 Cr.P.C. and only on the basis of some finding in the report under Section 202 Cr.P.C. that these accused have issued the certificates regarding caste, which are stated to be forged etc., the Naib Tehsildars cannot be summoned. The Naib Tehsildars are to issue the certificates on the basis of reports and notings of the

Patwaris and they are not supposed to visit the villages or to verify personally whether the persons belong to Scheduled Castes or Backward Classes etc. Therefore, the learned revisional Court has correctly set aside the orders by holding that there is not an iota of evidence against these persons showing their connivance or commission of any offence. The impugned orders passed by the learned Additional Sessions Judge, Faridabad in the revision petitions are correct as per law and do not require any interference from this Court and the same are upheld.

Finding no merit in these petitions, the same are dismissed.

October 12, 2017.

**(Inderjit Singh)**  
**Judge**

\*hsp\*

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| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |