

Criminal Misc. M- No. 4123 of 2017 (O&M)

Date of decision : March 24, 2017

Amandeep Kumar @ Aman Kumar

.....Petitioner

Versus

Suman

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. C.M. Munjal, Advocate
for the petitioner.

LISA GILL, J.

The petitioner seeks quashing of order dated 22.09.2016 (Annexure P-6) passed by the learned Additional Sessions Judge, Fatehabad whereby the matter has been remanded to the learned Magistrate to pass a fresh order in respect to summoning of the accused petitioner.

In this case, complaint dated 27.08.2013 under Sections 323, 354, 341, 504, 506, 34 IPC was filed by the respondent against the present petitioner and two others. The learned Magistrate called for a report under Section 202 Cr.P.C. The learned Magistrate dismissed the complaint dated 23.05.2014 (Annexure P-4) while observing that in view of the contents of the report submitted by SHO Police Station Ratia under Section 202 Cr.P.C., no ground is made out to summon the accused persons.

A revision petition was preferred by the respondent challenging order dated 22.09.2016 (Annexure P-6). The learned revisional Court vide impugned order dated 22.09.2016 observed that the order has been correctly passed in respect to two of the co-accused of the petitioner. However, in

respect to the present petitioner the matter was remanded to the learned Magistrate for passing a fresh order primarily taking into consideration the fact that an order could not be passed while relying solely on the report under Section 202 Cr.P.C. and the other material on record should also have been considered. Learned counsel for the petitioner, however, submits that the observations made by learned Additional Sessions Judge, Fatehabad, shall in any case, seal the petitioner's fate. Hence, this petition has been filed.

Having heard learned counsel for the petitioner, I find that the apprehension expressed by the petitioner is unfounded. The matter has merely been remanded to the learned Magistrate to pass a fresh order on the basis of not only the report under Section 202 Cr.P.C. but other evidence on record as well. The Magistrate is required to look into the facts and circumstances of the case and thereafter pass a fresh order. Needless to say that the learned Magistrate shall pass a fresh order on the basis of the report under Section 202 Cr.P.C. as well as the other evidence on record without being influenced by any observation, which may have been made by the learned Additional Sessions, Fatehabad while passing order dated 22.09.2016.

This petition is, accordingly, disposed of.

(Lisa Gill)
Judge

March 24, 2017
rts

Whether speaking/reasoned : Yes

Whether reportable : Yes/No