

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

CRR-4510-2015

Date of decision: 22.02.2017

Chaman Lal Kanda and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Munish Gupta, Advocate,
for the petitioners.

Mr. A.P.S. Gill, AAG, Punjab.

Mr. Abhaypal Singh Gill, Advocate,
for respondent No.2.

Ritu Bahri, J.

This petition has been filed against the order dated 21.10.2015 passed by the Additional Sessions Judge, Jalandhar, setting aside the order dated 09.06.2015 passed by the Judicial Magistrate Ist Class, Jalandhar, whereby application filed by the prosecution under Section 319 Cr.P.C., for summoning Chaman Lal Kanda, Chanchal Kanda and Harish Kanda, has been dismissed.

Initially, the trial Court vide order dated 09.06.2015 dismissed the application under Section 319 Cr.P.C., filed by the complainant through learned APP for the State. This order was challenged by complainant-Pooja Kanda (respondent No.2 herein) by filing a revision, which was allowed by the Additional Sessions Judge, Jalandhar qua Chaman Lal Kanda &

Chanchal Kanda and a direction was issued to the trial Court to pass a fresh order against these persons keeping in view the averments made in the application (Ex.PA).

Short question for consideration before this Court is, “whether necessary notice was required to be issued to the petitioner before passing of the impugned order dated 21.10.2015 by the revisional Court.”

While deciding the revision filed by the complainant against the order dated 09.06.2015, it was mandatory for the revisional Court to give prior notice to the petitioner and his wife Chanchal Kanda as they were the affected persons and after dismissal of the application under Section 319 Cr.P.C., they could not be summoned to face criminal proceedings without affording them an opportunity to represent themselves.

Resultantly, the impugned order dated 21.10.2015 is set aside and the matter is remanded back to the Additional Sessions Judge, Jalandhar (revisional Court) with a direction to give an effective opportunity of hearing to the petitioner and thereafter, pass a fresh order on merits. Parties are directed to appear before the said Court on 31.03.2017.

Allowed accordingly.

22.02.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No