

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-24171 of 2018

Date of Decision: August 28, 2018

Niraj Kumar Nathani and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rose Gupta, Advocate
for the petitioners

Sudhir Mittal, J. (Oral)

Learned counsel for the petitioners submits that he does not want to place on record any other document and will argue the case as it is.

Petitioners No. 1 and 2 are residents of the State of Jharkhand and petitioner No. 3 is a resident of Kolkata. Notice/intimation letter dated 18.03.2018 (Annexure P-7) followed by notice dated 25.03.2018 (Annexure P-10) has been issued by an official from P.S. Suraj Kund, District Faridabad, to appear and join investigation as a complaint of fraud and conspiracy has been presented against them. Aggrieved by these notices, the present petition has been filed.

Learned counsel for the petitioners submits that the complaint aforementioned is a counter blast to complaint dated 21.04.2017 filed by petitioner No. 1 against wife of respondent No. 2 at Kolkata in which she has been summoned. The notice issued to the petitioners to join investigation is not in accordance with Section 41-A of the Code of Criminal Procedure and, thus, the same is bad in law.

No provision of the Code of Criminal Procedure has been brought to my notice by virtue of which an Investigating Officer is bound to issue notice under Section 41-A of the said Code to an accused person. Thus, the petitioners can not

claim as a matter of right that such a notice should be issued to them before they are

asked to join investigation. However, keeping in view the facts and circumstances of this case, I deem it appropriate to dispose of this petition with a clarification that the notice dated 18.03.2018 (Annexure P-7) shall be deemed to be a notice under Section 41-A of the Code of Criminal Procedure. The petitioners are directed to contact concerned police official and to appear before him at an early date.

August 28, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No