

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

CRM-M No.29161 of 2015 (O&M)

Date of Decision: 27.03.2018

Baljeet Saini and others

..... Petitioners

Versus

Dr. Yad Ram Saini

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sandeep K. Sharma, Advocate for the petitioners.

Mr. Anshuman Dalal, Advocate for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed against the impugned judgment dated 20.07.2015, passed by learned Additional Sessions Judge, Rohtak, vide which the revision against the order dated 28.04.2015, passed by learned Judicial Magistrate 1st Class, Rohtak, thereby dismissing the criminal complaint filed by the respondent, was allowed and the matter was remanded back to the learned trial Court to decide afresh as per law.

This Court, while issuing notice of motion on 04.09.2015 passed the following order:-

“
Learned counsel for the petitioners submits that the complaint filed by the respondent was dismissed vide order dated 03.02.2014 (Annexure P-2) and thereafter, it was restored on 10.03.2014 (Annexure P3). However, it was again dismissed on 28.04.2015 (Annexure P-4). Learned counsel further submits that the said order was challenged before the Revisional Court and without issuing any notice to the petitioner, the directions have been issued, which are contrary to settled proposition of law as

has been held in the judgments of Hon'ble the Apex Court in cases Major General A.S. Gauraya vs S.N. Thakur 1988(1) RCR (Criminal) 3 as well as Manharibhai Muljibhai Kakadia and another vs Shaileshbhai Mohanbhai Patel and others 2012(4) RCR (Criminal) 689, judgments of this Court in cases Daya Kishan and another vs Banarsi Dass 2010(2) RCR (Criminal) 451 as well as Des Raj Garg vs Ramesh Verma passed in CRR No.1795 of 2013, decided on 11.03.2014.

Notice of motion for 17.11.2015.

Meanwhile, proceedings before the trial Court shall remain stayed. ”

It is contended by learned Counsel for the petitioners that learned Additional Sessions Judge, Rohtak has allowed the revision petition without even issuing notice to the present petitioners and thus, the same is not sustainable in law and he has relied upon the judgments of Hon'ble Supreme Court rendered in "**Dr. Mrs. Nupur Talwar Versus C.B.I. Delhi and another**", 2012 (4) RCR 326; '**Shivjee Singh Versus Nagendra Tiwary and others**', 2010 (3) RCR 466 to substantiate his submissions.

Heard learned Counsel for the parties and perused the paper-book.

There is no dispute that without issuing notice to the opposite side i.e. the petitioners, learned Additional Sessions Judge, Rohtak accepted the revision petition and set aside the order dated 28.04.2015, passed by the learned trial Court. Even otherwise, the opportunity of hearing in such matter is the minimum requirement under the principle of natural justice and no-one should be condemned unheard. The judgments cited by learned Counsel for the petitioners also speak about this principle.

In view of above, the present petition is allowed. Consequently, the impugned order dated 20.07.2015, passed by learned Additional

Sessions Judge, Rohtak is set aside and the matter is remanded back with the direction to decide the Criminal Revision No.39 of 2015 titled as **“Dr. Yadram Saini Versus Baljeet Saini and others”** afresh in accordance with law after affording proper opportunities to both the parties.

Parties are directed to appear before learned Additional Sessions Judge, Rohtak on 16.04.2018.

Needless to say that if any proceedings have been taken place before learned trial Court after passing of the impugned order by learned Additional Sessions Judge, Rohtak, the same be subject to the decision to be taken by learned Additional Sessions Judge, Rohtak.

March 27, 2018

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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes