

**In the High Court of Punjab and Haryana at Chandigarh**

**Crl. Misc. No. M-7678 of 2016  
Date of Decision: 27.11.2018**

Bhagwati

.....Petitioner

Versus

Kuldeep Singh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Vikas Kumar, Advocate  
for the petitioner.

Mr. Bharat Bhushan Sharma, Advocate  
for the respondent.

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**ANITA CHAUDHRY, J**

The petitioner is seeking quashing of criminal complaint No. 418 dated 17.5.2012/19.11.2012 titled 'Kuldeep Singh versus Pawan and others' (Annexure P-1) and the order passed in the revision dated 10.11.2015 (Annexure P-3) as well as the summoning order dated 17.12.2015 (Annexure P-4).

Counsel for the petitioner at the outset states that a complaint was filed by Kuldeep Singh arraying a number of persons and the trial Court did not summon the petitioner and the rest of the accused were summoned and aggrieved by the order, the complainant filed a revision only against Bhagwati (petitioner) and the revisional Court did not issue notice to the respondent and made observations against the respondent and remanded the

case back to the Magistrate with a direction to pass a fresh order on the point of summoning. Counsel further states that there was a favourable order passed in favour of Bhagwati and no order could be passed without notice to the petitioner, the order be set aside and the matter be remanded back to the Sessions Judge.

Counsel for the respondent supports the order passed in the revision.

The petitioner was not summoned by the Chief Judicial Magistrate, Palwal. The rest of the accused had been summoned. The complainant was aggrieved by the order as the petitioner was not summoned. The Sessions Judge, Palwal in para 7 of its order notices that notice was not being issued to the respondent but ultimately made observations against the respondent in para 11 and allowed the revision petition setting aside the summoning order and remanded the case back to the Magistrate with the direction to pass a fresh order on the point of summoning and it held that the Magistrate could not decline to issue process to Bhagwati on the basis of evidence on record.

The order is contradictory in nature. On the one hand the Court notices that notice was not being issued to Bhagwati as she had not been summoned but in the later paragraph there are observations that allegations were levelled by the complainant against her and there was material and it was corroborated by the other statements and medical evidence. No adverse order could have been passed against a party without a hearing.

The order passed by the revisional Court dated 10.11.2015 (Annexure P-3) is set aside. The case is remanded back to the Sessions Judge, Palwal. The Sessions Court would re-hear the matter after notice to

the respondent arrayed in the revision before it. Complainant Kuldeep would appear before the Sessions Court on 10.12.2018.

The petition is allowed.

**(ANITA CHAUDHRY)  
JUDGE**

**November 27, 2018**

**Gurpreet**

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