

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

CRR-2598-2016

Date of decision:-9.1.2018

Paramjit Kaur and others

...Petitioners

Versus

Ganesh Gee

...Respondent/complainant

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sherry K. Singla, Advocate
for the petitioners.

Mr.Abhishek Singla, Advocate
for the respondent.

H.S. MADAAN, J.

Complainant – Ganesh Gee had filed a complaint under Sections 341, 323, 506, 148, 149 IPC against Paramjit Kaur, Rajwinder Kaur, Gurjit Kaur, Rani Kaur, Karamjit Kaur, Manjit Kaur, Sunita, Puja Rani, Madhu, Girdhari Lal, Karamjit Sharma, Jagdish Singh, Naib Singh and Gurmel Singh in the Court of Judicial Magistrate Ist Class, Talwandi Sabo. However, the complaint was dismissed by Judicial Magistrate Ist Class, Talwandi Sabo vide order dated 20.8.2013.

Feeling aggrieved, the complainant had preferred a revision petition to the Court of Sessions, which was accepted by learned Additional Sessions Judge, Bathinda vide order dated 31.3.2016. The concluding part of the judgment is as under:

“For the reasons recorded above, this Court is of the view that there is sufficient evidence in the shape of preliminary evidence to proceed against the accused/respondent, for offences U/s 341/323/506/148/149 IPC. Thus, the present revision petition, is hereby allowed and all the accused/respondents are ordered to be summoned to face trial U/s 341/323/506/148/149 IPC.”

The accused felt aggrieved by the aid order passed by learned Additional Sessions Judge, Bathinda and have preferred a revision petition before this Court craving that this order be set aside.

Notice of the revision petition was given to respondent – complainant, who has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The main ground for attack by counsel for the revision petitioners is that learned Additional Sessions Judge, Bathinda could though set aside the order passed by the trial Court but could not have ordered summoning of the accused in such a way. In support of his contention, learned counsel has relied upon **Jai Parkash and another Versus Ritu Dalal, 2015(5) R.C.R.(Criminal) 680** by a Co-ordinate Bench of this Court wherein it was observed that revisional Court is not competent to pass an order of summoning accused while disposing of revision preferred by complainant whose complaint had been dismissed after recording preliminary evidence and finding that there was no sufficient ground for proceeding against the accused.

Learned counsel representing the respondent/complainant could not distinguish this authority on any point or cite any other to the contrary.

I find merit in such contention raised by learned counsel for the revision petitioners. As such, the revision petition is allowed and the order passed by learned Additional Sessions Judge, Bathinda summoning the present petitioners as accused is set aside and the case is remanded to learned Additional Sessions Judge, Bathinda directing him to pass fresh order in accordance with law. It may be observed here that though learned Additional Sessions Judge, Bathinda could set aside the order passed by the trial Court but the necessary direction which ought to have been issued was to reconsider the matter in light of the allegations in the complaint, evidence available on the record and then to pass fresh order with regard to summoning of the accused.

Accordingly, learned Additional Sessions Judge, Bathinda is directed to dispose of the revision petition within a period of two months from the date of receipt of certified copy of this order.

9.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No