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

**CRM-M-22947-2015
Date of decision-23.10.2019**

Prem Nath and another

...Petitioners

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: None for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioners have filed this petition for challenging the order dated 25.11.2014 passed by the revisional Court whereby the order of discharge dated 29.07.2010 passed by the trial Court was set aside with the observation that *prima facie* case for framing the charge against the petitioners under Sections 120-B and 406 Indian Penal Code 1860 was made out. The petitioners were directed to appear before the trial Court on 12.12.2014 with a further direction to the trial Court to proceed further as per procedure.

Though there is a written request for adjournment on behalf of learned counsel for the petitioners, however, considering the case to be an old one, this Court does not find any reason to adjourn the case.

Learned State counsel contends that the State had preferred this

revision against the order of discharge passed by the trial Court and the revisional Court has accepted the revision and remanded the matter before the trial Court.

A perusal of the impugned order passed by the revisional Court reveals that the petitioners (accused) who were discharged by the trial Court were not heard as no one had appeared on their behalf on the said date. Similar was the position in respect of co-accused, namely, Lakhvir Singh qua whom the revisional Court proceeded to dismiss the revision for want of prosecution as the summons were not issued along with the copies of the revision. The said observation is extracted below:-

“The case was called several times but none had appeared on behalf of the respondents-accused despite the fact that the respondents were directed to come present so that this old revision petition could be disposed of. The petitioner has failed to supply the copies of the revision petition and summons for sending notice to the respondent No.3 for his appearance and as such, the relief against respondent No.3 is declined for want of prosecution.”

A reading of the above indicates that the Revisional Court has upheld the discharge order in respect of accused-Lakhvir Singh. It is not disputed by learned State counsel that the case set up by the revisionist was common against all the accused persons. It is evident that no one had appeared on behalf of the petitioners on the said date and the revisional

Court proceeded to set aside the order dated 29.07.2010 discharging the petitioners.

After examining the facts and circumstances of the case, this Court finds that the order passed by the Revisional Court is not sustainable as the effective opportunity of hearing was not afforded to the accused (petitioners) who were discharged by the trial Court.

Resultantly, impugned order dated 25.11.2014 (Annexure P-6) is set aside and the case is remanded to the revisional Court to decide it afresh after hearing the parties.

The parties are directed to appear before the revisional Court on 18.12.2019.

Disposed off.

(MANOJ BAJAJ)
JUDGE

23.10.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No