

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2461-2018(O&M)

Date of Order:21.05.2019

Manish Arora and another

..Petitioners

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Rampal, Advocate
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab

Mr. Lokesh Vohra, Advocate, for respondent no.2.

ANIL KSHETARPAL, J(Oral)

Challenge is to the order passed summoning the petitioners in a criminal complaint.

Learned counsel for the petitioners has submitted that the enquiry as envisaged under Section 202 of the Code of Criminal Procedure has not been carried out by the concerned Magistrate. He further submits that the complainant-respondent no.2-Paramjeet Singh while filing the complaint has himself mentioned that before filing the criminal complaint, he had filed a complaint before the Commissioner of Police on which no action has been taken. He submits that in fact police had carried out enquiry and found no merit in the complaint moved by the complainant-respondent no.2-Paramjeet Singh. He further submits that the order passed by the Judicial Magistrate is erroneous as the learned Judicial Magistrate was not apprised of the report by the Additional Deputy Commissioner of Police,

Zone-3, Ludhiana, Annexure P-4 with the present petition. The report is dated 10.04.2017, whereas the order of summoning is dated 28.10.2017.

On the other hand, learned counsel for the private respondent submits that such report, Annexure P-4 is not binding on the Court. He further submits that let the Court directs the police to re-investigate the matter.

After hearing learned counsels for the parties, this Court is of the view that the order summoning the petitioners is required to be set aside keeping in view the fact that on a complaint with similar assertions/allegations, some kind of enquiry has been conducted by the Additional Deputy Commissioner of Police, Zone-3, Ludhiana, which was required to be examined by the concerned Magistrate before passing the order of summoning. It may be observed that the concerned Magistrate shall not be bound by the report submitted. However, the Court would take the report into consideration before passing the order.

Keeping in view the aforesaid facts, the order of summoning dated 28.10.2017 is set aside.

Learned Judicial Magistrate is requested to pass an order afresh after considering the report Annexure P-4.

Disposed of accordingly.

May 21, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No