

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.201

CRM-M-27445-2015 (O&M)
DECIDED ON: January 17, 2019

PAVITTAR SINGH & ORS.

..PETITIONERS

VERSUS

SHAMSHER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.S. Brar, Advocate,
for the petitioners.

Mr. Kulbir Sekhon, Advocate,
for the respondent.

SUDHIR MITTAL, J. (ORAL)

The petitioners seek quashing of order dated 21.03.2015 passed by learned Additional Sessions Judge, Sri Muktsar Sahib in Criminal Revision No.13 of 02.02.2015 titled as *Shamsher Singh vs. Gurtej Singh & ors.*

Respondent-Shamsher Singh s/o Mehar Singh filed a complaint against the petitioners and others under Section 323, 324, 500 & 34 IPC in the Court of Sh. Bikramjit Singh, PCS, Sub Divisional Judicial Magistrate, Gidderbaha, District Sri Muktsar Sahib. After recording pre-charge evidence, the trial Court dismissed the complaint vide judgment dated 02.12.2014 (P-2). The said judgment was challenged by the respondent by

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way of aforementioned Criminal Revision, which was allowed partially vide judgment dated 21.03.2015 by the learned Additional Sessions Judge, Sri Muktsar Sahib (P-3). The petitioners and others were summoned to face trial for offences under Section 500, 323, 34 IPC.

Learned counsel for the petitioners submits that in exercise of jurisdiction under Section 397 Cr.P.C., the Revisional Court could only have set aside the order impugned before it and could have directed the trial Court to pass a fresh order on the basis of pre-charge evidence. It could not have directed summoning of the accused persons. Reliance is placed upon ***Jai Parkash & anr. vs. Ritu Dalal, 2015(5) R.C.R. (Criminal) 680*** as well as ***Ashwani Kala vs. Lalit Mohan, 2013(22) R.C.R. (Criminal) 909***.

Learned counsel for the complainant-respondent submits that there is no bar contained in the Cr.P.C. which prohibits a Revisional Court from passing a summoning order.

A perusal of the judgment in ***Jai Parkash's case (Supra)*** shows that learned Single Judge of this Court has held that in exercise of revisional jurisdiction, a Revisional Court can only examine the records of any proceeding conducted by Inferior Criminal Court for satisfying itself regarding its legality or propriety but it does not have the power to pass a summoning order itself. The ratio of ***Ashwani Kala's (supra)*** is however, not attracted in this case as it has been held in the said judgment that in a revision against dismissal of a complaint, the accused persons should have also been heard.

Learned counsel for the complainant-respondent has not been able to point out any judgment to the contrary.

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Thus, the petition is allowed and the impugned order dated 21.03.2015 (P-3) passed by learned Additional Sessions Judge, Sri Muktsar Sahib, is partially quashed so far as it directs the summoning of the accused persons. The trial Court is directed to pass a fresh order on the complaint of the complainant-respondent in accordance with law. For this purpose, the complainant-respondent shall appear before the trial Court on 01.02.2019.

Disposed of accordingly.

January 17, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No