

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-32181-2017(O&M)
Date of Order: 29.10.2019

Balkar Ram and others

..Petitioners

Versus

Pargan Ram

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashok Giri, Advocate,
for the petitioners.

Mr. Naresh Kaushik, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

Petitioners are respondents in a criminal complaint filed under
Sections 500/501/506/341/120-B/148/149 of the Indian Penal Code.

Learned trial Court refused to summon the petitioners,
however, in revision the learned Court of Sessions has chosen to set aside
the same and remit the matter back to the Magistrate.

This Court has heard learned counsels for the parties at length
and with their able assistance gone through the paper book.

Learned counsel for the petitioners submits that the Court of
Sessions had made observations or returned *prima-facie* findings, which is
extracted as under:-

*“So from the perusal of the statement of witnesses and
documents placed on the file, it is clear that respondents
filed a complaint against revisionist before Sarpanch of
gram panchyat on 4.10.2013 and in pursuance of this
complaint revisionist was summoned by gram panchayat
on 9.11.2013 vide letter dated 3.11.2013. Revisionist*

stated that thereafter he was defamed in the gram panchayat at the instance of respondents. Revisionist stated that he was defamed in the presence of general public without any basis. So revision himself supported his version and CW2 and CW3 also supported the version of the revisionist. So at the stage of summoning, Court had to see whether there is sufficient evidence to summon the persons or not. So from the perusal of the statements of witnesses and documents placed on the file, it is clear that there is sufficient evidence to proceed against respondents, but learned trial Court had wrongly dismissed the complaint filed by Pargan Ram. So learned trial Court had committed error while dismissing the complaint of revisionist.”

Hence, he submits that the Judicial Magistrate shall be bound by the same. He submits that on the one hand the Court of Sessions has remitted the case back to the Judicial Magistrate and on the other hand returned a finding. He further submitted that the parties have been wrongly directed to appear before the Court as the petitioners who are respondents in the criminal complaint and they are yet to be summoned and, therefore, there could not be any direction to the petitioners to appear before the Judicial Magistrate.

On the other hand, learned counsel for the respondent does not dispute that the learned Court of Sessions could not have directed the petitioners, who are respondents in the criminal complaint unless there is an order of summoning. He further submits that he has no objection to direct the Judicial Magistrate to pass fresh order after considering the evidence and application of judicial mind.

Keeping in view the aforesaid arguments of learned counsels for the parties, the present petition is disposed of by directing the learned

Judicial Magistrate to pass a fresh order without being influenced by the observations made by the Court of Sessions which has been extracted above.

Needless to observe that, at this stage, the petitioners cannot be directed to appear.

October 29, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No