

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

**CRM No.M-36218 of 2016 (O&M)
Date of Decision: March 11, 2019**

Rajinder Kaur

...Petitioner

VERSUS

Darshan Singh Sahi

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.P.S.Ghuman, Advocate
for the petitioner.

Mr.Mukand Gupta, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner Rajinder Kaur has filed this petition under Section 482 Cr.P.C. against respondent Darshan Singh Sahi, for quashing of impugned judgment dated 21.07.2016 passed by learned Addl. Sessions Judge, Mohali, vide which the revision petition filed by the respondent was allowed without summoning the petitioner-accused and complaint No.35 dated 03.12.2010 titled as 'Darshan Singh vs. Rajinder Kaur' was restored, contrary to the law laid down by the Hon'ble Apex Court in ***Manharibhai Muljibhai Kakadia and another vs. Shaileshhai Mohanbhai Patel and others, 2012(4) RCR (Criminal) 689.***

Notice of motion was issued. Learned counsel for respondent appeared and contested the petition.

through the record.

At the time of arguments, it is admitted that in the revision petition, learned Addl. Sessions Judge, Mohali has not given notice to respondent Rajinder Kaur, petitioner in the present petition. The position of law is also admitted as laid down by the Hon'ble Supreme Court in ***Manharibhai Muljibhai Kakadia's case (supra)***. In that case, criminal complaint was filed before Magistrate and the Magistrate, after taking cognizance, dismissed the complaint under Section 203 Cr.P.C. A revision was filed against the dismissal of complaint. It is held in the above-cited case that a person accused in the complaint, has a right to be heard in revision petition.

In view of the law laid down by the Hon'ble Apex Court, the impugned judgment dated 21.07.2016 passed by learned Addl. Sessions Judge, Mohali, accepting the revision petition and restoring the complaint without issuing notice to the accused, is not as per law and the same is set aside.

Therefore, finding merit in the present petition, the same is allowed. The matter is remanded back to the Court of learned Addl. Sessions Judge, Mohali, for hearing the revision petition afresh after giving opportunity of being heard to the petitioner-accused and then to decide the revision petition, as per law. The parties are directed to appear before learned Addl. Sessions Judge, SAS Nagar, Mohali, on 25.03.2019.

March 11, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No