

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

**CRM-M-431-2017 (O&M)
Date of Decision:04.04.2019**

Manoj Kumar

...Petitioner

Versus

Yashpal and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Yogesh Goel, Advocate for the petitioner.
Mr.IPS Mangat, Advocate for respondents No.1 to 3.
Mr.Luvinder Sofat, AAG, Punjab.

ANIL KSHETARPAL, J.

A police case as well as a private complaint filed with regard to same incident against the same accused are pending. In the police case, challan was presented and charges were framed and thereafter the evidence has been recorded. In the case initiated on the basis of a private complaint faced dismissal at the hands of the trial court as court refused to summon the accused. However, in the revision, the order passed by the learned trial court was set aside and the trial court was directed to proceed in accordance with Section 210 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.).

The learned trial court issued summons under Section 210 Cr.P.C. Thereafter the case was committed to Sessions Court. The learned Sessions Court has quashed the order by which the learned Judicial Magistrate had ordered summoning of the accused under Section 210 Cr.P.C.

This Court has carefully gone through the provisions of Section 210 Cr.P.C. along with the judgments passed by Hon'ble the Supreme Court

in **Harjinder Singh Vs State of Punjab and others, 1985 (1) SCC 422, Manikandan Vs Pandian and others, 1990 SCC (Cri) 203 and Pal @ Palla Vs State of Uttar Pardesh, 2010 (10) SCC 123**, interpreting the Scheme behind Section 210 Cr.P.C.

In the present case, the learned Additional Sessions Judge, before whom both the cases were committed, was required to consider that both the cases were instituted on a police report and proceed with the matter. The sum and substance and principle behind Section 210 Cr.P.C. is to avoid multiplicity of proceedings and rule out possibility of conflicting judgment. This is a rule of procedure which is not substantive in nature. The rules of procedure are to be applied for advancing the interest of justice rather than scuttling it. In such circumstances, the courts should make an endeavour to proceed and decide the main case rather than spending time on procedural aspect of it unless it is very necessary.

Accordingly, the learned Additional Sessions Judge is directed to proceed with both the cases on a police report. If the charges are required to be amended in view of the summoning order, the court would amend the charges. Needless to observe that the complainant would also be granted opportunity to lead evidence.

Disposed of accordingly.

04.04.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No