

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

(1) CRM-M-14032 of 2014.  
Decided on:- January 09, 2020.

Tara Chand and others

.....Petitioners.

Versus

State of Punjab and another

.....Respondents.

(2) CRR No.2581 of 2014.

Tara Chand and others

.....Petitioners.

Versus

State of Punjab and another

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.**

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Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with  
Mr. Pratham Sethi, Advocate  
for the petitioners.

Ms. Ruchika Sabharwal, A.A.G., Punjab.

Mr. Surinder Garg, Advocate  
for respondent No.2.

**HARI PAL VERMA, J.**

This order shall dispose of the aforesaid two petitions as the same have arisen out of a complaint No.17 dated 23.02.2007 titled as ***Prem Chand Versus Tara Chand and others*** under Sections 307, 354, 452 and 506

read with Section 34 IPC as well as Section 25 of the Arms Act, 1959 pending between the same parties before the Court of learned Additional Sessions Judge, Mansa.

The petition i.e. *CRM-M-14032 of 2014* titled as *Tara Chand and others Versus State of Punjab and another* has been filed by the petitioners-accused under Section 482 Cr.P.C. for quashing of the aforesaid complaint (Annexure P-1) filed by respondent No.2 Prem Chand and the order dated 13.11.2013, whereby the petitioners-accused have been summoned to face trial under Sections 307, 354, 452, 323 and 506 read with Section 34 IPC and Section 25 of the Arms Act, 1959 vide order dated 13.11.2013 passed by learned Sub-Divisional Judicial Magistrate, Budhlada. Besides this, the petitioners-accused have also challenged the judgment dated 19.03.2014 passed by learned Additional Sessions Judge, Mansa, whereby the criminal revision filed by the petitioners-accused against the aforesaid summoning order passed by learned Magistrate, was dismissed.

The second petition i.e. *CRR No.2581 of 2014* titled as *Tara Chand and others Versus State of Punjab and another* is a criminal revision under Section 401 Cr.PC filed by the petitioners-accused for setting aside the order dated 10.07.2014 passed by learned Additional Sessions Judge, Mansa, whereby they have been charge-sheeted under Sections 452, 307, 354, 506 and 323 read with Section 34 IPC and Section 25 of the Arms Act, 1959 in the aforesaid complaint filed by respondent No.2-complainant Prem Chand.

However, for convenience and clarity, the detailed order is being passed in *CRM-M-14032 of 2014*.

Briefly stated, respondent No.2-complainant Prem Chand had filed the aforesaid complaint (Annexure P-1) under Sections 307, 354, 452 and 506 read with Section 34 IPC as well as Section 25 of the Arms Act, 1959 against the petitioners-accused, namely, Tara Chand, Devinder Kumar, Ajay Kumar and Angoori Devi before the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Budhlada. It was alleged by the complainant that on 19.02.2007 he had closed his shop at about 09.00 P.M. and reached the house. When he along with his family was taking dinner, a vehicle had been stopped in front of his house. Very swiftly, the accused opened the gate of his house and forcibly entered the house while abusing him. Accused Tara Chand was having a stick, Ajay Kumar was having a hockey stick and accused Devinder Kumar was having a pistol in his hand whereas accused Angoori Devi was empty handed. Accused Tara Chand ordered his son Devinder to fire at the complainant. On this, accused Devinder Kumar fired at the complainant, but the round crossed him very near from his ear and hit the wall. The complainant tried to climb the stairs to reach at roof and when he was fleeing, accused Devinder Kumar fired upon him. However, the complainant saved himself by taking shelter of the wall and stair-case. Accused Ajay Kumar caught hold of the wife of the complainant and had torn her clothes. Accused Angoori Devi had beaten the children of the complainant. The complainant reached at the roof and cried for help. In the meanwhile, Dev Raj and other persons from the neighbourhood gathered there and on seeing so many people, the accused fled away from the spot along with their respective weapons in their Maruti car. While fleeing away, accused Tara Chand

threatened the complainant that on that day, the complainant had escaped but when they would get the right time, they would kill him.

In the aforesaid complaint (Annexure P-1), the petitioners-accused were summoned to face trial under Sections 451, 323 and 506 read with Section 34 IPC vide order dated 22.05.2010 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Budhlada. Against the said order of summoning, the petitioners-accused had filed a criminal revision before the Court of Session, wherein vide judgment dated 21.12.2011, learned Additional Sessions Judge, Mansa had summoned the petitioners-accused under Sections 307, 354, 452, 323 and 506 read with Section 34 IPC as well as Section 25 of the Arms Act, 1959.

Against the aforesaid judgment dated 21.12.2011 passed by learned Additional Sessions Judge, Mansa, the petitioners-accused had filed a petition i.e. *CRM-M-1209 of 2012* under Section 482 Cr.PC before this Court titled as *Tara Chand and others Versus Prem Chand*. Vide order dated 06.09.2012 (Annexure P-5), this Court had allowed the said petition and while setting aside the judgment dated 21.12.2011 passed by learned Additional Sessions Judge, Mansa, had remitted the matter to the board of learned Judicial Magistrate 1<sup>st</sup> Class, Budhlada to further inquire into the complaint and to pass the fresh summoning order qua petitioners No.1 to 3 for the offence under Sections 307, 354, 452 and 506 read with Section 34 IPC and Section 25 of the Arms Act, 1959 in accordance with law. Learned Magistrate was also directed to further inquire into the role of petitioner No.4 and to pass such order as deemed fit on the basis of the material available on

record. The parties were directed to appear before learned Judicial Magistrate 1<sup>st</sup> Class, Budhlada on 01.10.2012 for further proceedings in the matter.

In compliance of the aforesaid order dated 06.09.2012 (Annexure P-5) passed by this Court, learned Sub-Divisional Judicial Magistrate, Budhlada had called the report of SHO Police Station, Bareta vide order dated 17.01.2013 (Annexure P-8). Thereafter, the police submitted a report dated 10.02.2013 (Annexure P-4) before learned Magistrate. However, vide impugned order dated 13.11.2013 (Annexure P-2) passed by learned Sub-Divisional Judicial Magistrate, Budhlada, the petitioners-accused have been summoned to face trial under Sections 307, 354, 452, 323 and 506 read with Section 34 IPC and Section 25 of the Arms Act, 1959 vide order dated 13.11.2013 in the aforementioned complaint (Annexure P-1).

Thus, by way of the present petitions, the petitioners-accused have not only sought quashing of the aforesaid complaint (Annexure P-1), but they have also prayed for setting aside of the summoning order dated 13.11.2013 (Annexure P-2) passed by learned Sub-Divisional Judicial Magistrate, Budhlada; judgment dated 19.03.2014 passed by learned Additional Sessions Judge, Mansa, whereby the criminal revision filed by them against the aforesaid summoning order, was dismissed; and the order dated 10.07.2014 passed by learned Additional Sessions Judge, Mansa, whereby they have been charge-sheeted under Sections 452, 307, 354, 506 and 323 read with Section 34 IPC and Section 25 of the Arms Act, 1959 in the aforesaid complaint filed by respondent No.2-complainant Prem Chand.

Learned senior counsel for the petitioners-accused has argued that vide impugned order dated 13.11.2013 (Annexure P-2), the Sub-Divisional Judicial Magistrate, Budhlada has summoned the petitioners without there being any material on record and without any fresh evidence and without applying its judicious mind. The ingredients of the offence under Sections 307, 354 and 452 IPC as well as Section 25 of the Arms Act are not satisfied. Even the learned Magistrate has ignored the police report dated 10.02.2013 (Annexure P-4), whereby clean chit was given to the petitioners. Against their summoning, the petitioners had filed a criminal revision before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Mansa vide impugned judgment dated 19.03.2014. There is no supportive evidence available on record except the oral version of the complainant witnesses. Summoning of the petitioners for such serious offences just on the basis of hollow oral allegations is highly unjust and has caused miscarriage of justice.

Learned senior counsel has further contended that the charges were framed against the petitioners-accused erroneously without judicial application of mind vide impugned order dated 10.07.2014 passed by the Additional Sessions Judge, Mansa, whereby the petitioners-accused have been charge-sheeted under Sections 452, 307, 354, 506 and 323 read with Section 34 IPC and Section 25 of the Arms Act, 1959. The petitioners were charge-sheeted without there being any incriminating material on record. Moreover, while passing the impugned order dated 10.07.2014, no detailed reasons have been given by the trial Court.

On the other hand, learned counsel for respondent No.2-complainant has argued that the petitioners-accused have rightly been summoned to face trial on the basis of *prima-facie* evidence available on record against them. Moreover, at this stage, the respondent No.2-complainant has already concluded his evidence and the case is fixed for defence evidence of the petitioners-accused for today itself.

I have heard learned counsel for the parties.

Perusal of the impugned order dated 13.11.2013 (Annexure P-2) reveals that while summoning the petitioners-accused under Sections 307, 354, 452, 323 and 506 read with Section 34 IPC and Section 25 of the Arms Act, 1959, learned Magistrate has considered the preliminary evidence produced by the respondent No.2-complainant in the shape of testimony of complainant himself as CW1, Parveen Kumari as CW2 and Dev Raj as CW3. Further, the criminal revision filed by the petitioners-accused against their summoning has also been dismissed by learned Additional Sessions Judge, Mansa vide impugned judgment dated 19.03.2014 while considering the respective contentions of both the parties. The relevant paragraph No.7 of the impugned judgment dated 19.03.2014 reads as under:

*“7. The sequence of events as detailed in para no.1 of the judgment are not disputed. The short question which falls for determination in the criminal revision is that whether as per the order dated 06.09.2012 of the Hon’ble High Court fresh evidence was required to be sought by the learned lower court before passing the impugned summoning order or that the learned lower court was justified in summoning the revisionists-petitioners-accused on the basis of the preliminary evidence*

*recorded in the complaint case prior to the passing of the order dated 06.09.2013 by Hon'ble High Court. This court is of the considered view that Hon'ble High Court quashed the order passed by learned Additional Sessions Judge, Mansa issued directions for the summoning of the petitioner under Section 307, 354, 452 read with Section 34 of the IPC and 25/54/59 of the Arms Act. Hon'ble High Court directed learned JMIC to further enquire into the complaint and pass the fresh summoning order qua accused no.1 to 3 and to further enquire into the role of accused no.4 Angoori Devi on the basis of material available on record. Thus, as per the above said order of the Hon'ble High Court only fresh summoning order was required to be passed. No fresh evidence was required to be sought. Learned lower court has committed no illegality while passing the impugned summoning order after considering preliminary evidence available on record. Further enquiry does not mean that fresh evidence was required to be led by the complainant. It required the appreciation of evidence already led by the complainant by way of preliminary evidence. It is pertinent to mention there that no argument has been advanced on the merits of the case. Thus, finding no illegality in the impugned order passed by learned lower court, the present revision petition stands dismissed. File be consigned to the record room."*

So far as the argument of learned senior counsel for the petitioners-accused that while summoning the petitioners, learned Magistrate had ignored the police report dated 10.02.2013 (Annexure P-4) is concerned, the same cannot be accepted as perusal of the said report shows that during the enquiry, complainant Prem Chand had executed a Panchayati Razinama with accused Tara Chand. Further, complainant Prem Chand agreed in his statement that the court decision will be acceptable to him. Therefore, even if

the police report dated 10.02.2013 would have been discussed by learned Magistrate in the impugned order of summoning, the result would be the same. Thus, no prejudice has been caused to the petitioners.

Moreover, the argument of learned senior counsel for the petitioners-accused that no detailed reasons have been given by the trial Court while passing the impugned order dated 10.07.2014 for framing of charges, cannot be accepted in the light of the observations made by Hon'ble Supreme Court in ***Criminal Appeal No.1820 of 2019 (Arising out of SLP (Crl.) No.6964 of 2019*** titled as ***Bhawna Bai Versus Ghanshyam and others*** decided on 03.12.2019, no detailed reasons are required to be given while framing the charge. The relevant paragraph No.15 of the said judgment reads as under:

*“15. After referring to Amit Kapoor, in Dinesh Tiwari v. State of Uttar Pradesh and another (2014) 13 SCC 137, the Supreme Court held that for framing charge under Section 228 Cr.P.C., the judge is not required to record detailed reasons as to why such charge is framed. On perusal of record and hearing of parties, if the judge is of the opinion that there is sufficient ground for presuming that the accused has committed the offence triable by the Court of Session, he shall frame the charge against the accused for such offence.”*

In view of the above, this Court finds that there is no illegality or irregularity in the impugned order dated 13.11.2013 passed by learned Sub-Divisional Judicial Magistrate, Budhlada as well as the judgment dated 19.03.2014 passed by the revisionary Court, whereby the criminal revision filed by the petitioners-accused against their summoning, was dismissed.

Similarly, there is no illegality in the impugned order dated 10.07.2014 passed by learned Additional Sessions Judge, Mansa, whereby charges have been framed against the petitioners-accused, which may warrant interference by invoking revisional jurisdiction of this Court more particularly when the case before the trial Court is fixed for defence evidence at this stage.

Thus, affirming the impugned orders/judgments passed by the Courts below, both these petitions are hereby dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

Photocopy of this order be placed on the file of other connected case.

**January 09, 2020**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No