

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 31620 of 2009 (O&M)
Date of Decision: 04.2.2020

Balwant Singh and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S.Dinarpur, Advocate
for the petitioners.

Mr. Rahul Mohan, DAG, Haryana.

Mr. Jagdish Manchanda, Advocate
for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. for setting aside the order dated 15.1.2007 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Kurukshetra on the protest petition filed by respondent No. 2, converting the same as complaint and the order dated 31.3.2009 (Annexure P-8) passed by learned Additional Sessions Judge, Kurukshetra vide which revision filed by the petitioners was dismissed.

Learned counsel for the petitioners submits that there were 19 complainants who raised objections that the petitioners entered the temple and have destroyed the idols and damaged the vehicles of the local residents and accordingly the FIR was registered. After registration of FIR, investigation was conducted by the police as well as City Magistrate and on the basis of said investigation, cancellation report was submitted on

and accordingly, the petitioners were summoned to face the trial vide order dated 15.1.2007. He further submits that there is no assertion in the protest petition as per the definition of the complaint in Section 2(d) Cr.P.C. as well as Sections 190 Cr.P.C. and 200 Cr.P.C.

Learned counsel for respondent No. 2 states that before summoning, the preliminary evidence was recorded and as many as 09 witnesses were examined by the trial Court and at the adequate stage the summoning order was passed.

I have heard the learned counsel for the parties.

The order passed by the trial Court which was upheld by the Appellate Court while dismissing the revision petition, perfectly valid in view of the recent law laid down by the Hon'ble Supreme Court in ***Vinubhai Haribhai Malaviya and others versus The State of Gujarat and others, Criminal Appeal Nos. 478-479 of 2017, decided on 16.10.2019.***

Without going into the merits of the case, this petition is disposed of with a direction to the parties to appear before the trial Court and raise all the pleas by moving an application at an appropriate stage. The said pleas will be taken into consideration by the trial Court at an initial stage before proceeding further with the case.

With these observations, this petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

February 04, 2020
Gurpreet

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