

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3116-2016 (O&M)

Date of Decision: 06.02.2020

Roop Singh

..... Petitioner

V/s.

Veena Chaudhary

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Nihul Partap Singh, Advocate,
for the petitioner.

Mr. Deepender Singh, Advocate
for the respondent.

Arvind Singh Sangwan, J (Oral)

Prayer in the petition is for setting aside the order dated 22.08.2016 passed by the Revisional Court which while allowing revision filed by the respondent challenged the order dated 06.05.2014 in which it was directed that both the parties shall appear before the Trial Court to face the trial.

The counsel for petitioner has argued that the petitioner was an accused in F.I.R. No. 364 dated 31.07.11 u/s 279/337/506 I.P.C.. The Police on completion of the investigation found that no evidence has come on record for proceedings against the petitioner/ accused. A cancellation report was filed before the Illaqa Magistrate. The respondent/ complainant opposed the cancellation report and filed a protest petition on 26.09.2013. The trial Court treated the cancellation report as a complaint and recorded the statement of CW1, the complainant-Veena Chaudhary and CW2-Dr. Sohit Sharma.

Thereafter, the trial Court vide its judgment dated 06.05.2014 dismissed the complaint finding that no ground to summon the petitioner to face the trial in the said protest petition/ complaint is made out.

The respondent-Veena Chaudhary filed a revision before the Court of Sessions. The revisional Court after hearing both the parties remanded the case back with a direction to the trial Court to restore the complaint and proceed further.

Learned counsel for the petitioner submits that while remanding the case back, a direction was also issued by the revisional Court that both the parties will appear before the trial Court to face the trial whereas no summoning order has been passed by the trial Court, therefore the appearance of the petitioner before the trial Court is of no use.

In reply, the counsel for the respondent could not dispute the factual position that the complaint was dismissed at the stage of summoning the petitioner and since the petitioner was not summoned by the trial Court while passing the impugned order i.e. 06.05.2014, consequence of allowing the revision would be to restore the complaint and the trial Court is to pass a fresh order as to whether any case for summoning the petitioner is made out or not. Therefore, there was no necessity for the revisional Court to issue a direction that petitioner/accused should also appear before the trial Court even before an order of summoning is passed against him.

After hearing counsel for the parties, I find merit in the present petition. Accordingly, the order dated 22.08.2016 passed by the revisional Court is modified to the extent that the petitioner will not appear in the complaint till a fresh order is passed by the trial Court in accordance with law to find out whether evidence for summoning the petitioner is made out or not.

Disposed of.

February 6, 2020

Sonia Puri

**(ARVIND SINGH SANGWAN)
JUDGE**

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