

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

CRM-M-8047-2021

Date of decision: April 09, 2021

Vipin Kumar Makkar and another

...Petitioners

Versus

Deepak Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ashish Gupta, Advocate, for the petitioners.

Ms. Rosi, Advocate, for the respondent.

HARNARESH SINGH GILL, J.

Case was taken up for hearing through video conferencing.

Challenge in the present petition is to the order dated 04.02.2020 passed by the learned Sessions Judge, Mewat, whereby revision preferred by the petitioners against the order dated 29.07.2019 passed by the learned Additional Chief Judicial Magistrate Mewat, summoning them to face the trial under Sections 323 and 506 IPC in the complaint titled as 'Deepak Kumar Vs. Shiv Kumar and another', has been dismissed, being time barred.

The facts giving rise to the filing of the present petition are that the respondent-complainant had filed a complaint under Sections 323, 452 and 506 IPC against the petitioners. In the preliminary evidence, the complainant had

appeared in the witness-box as PW-1 and had also placed on record copy of MLR Ex.P.1 showing the injuries suffered by him at the hands of the petitioners. Even the trial Court sought the report under Section 202 Cr.P.C. and as per the same, the respondent had been thrashed by the petitioners. Accordingly, vide order dated 29.07.2019 passed by the learned Additional Chief Judicial Magistrate, Mewat, the petitioners were summoned to face the trial under Sections 323 and 506 IPC. Being dissatisfied with the said order, the petitioners filed a criminal revision, which had been dismissed by the learned Sessions Judge, Mewat , vide order dated 04.02.2020. Hence, the present petition.

Learned counsel for the petitioners has restricted his argument to the assailment of the order passed by the learned Sessions Judge, whereby the revision petition was dismissed as time barred.

It is submitted that the petitioners had not appeared before the Court prior to 21.11.2019 and the Revisional Court has wrongly drawn a conclusion that they were informed on mobile No.98122-18886 on 31.08.2019 by the process-server. It is further submitted that as a matter of fact, the said mobile does not belong to the petitioners and it was only on 22.10.2019, when the process-server informed them on their mobile No.98122-18881, they came to know about the pendency of the proceedings. Thereafter, they applied for the certified copy on 01.11.2019, which was delivered on 13.11.2019. Accordingly,

the revision petition filed by the petitioners on 02.12.2019, was within limitation.

Per contra, the learned counsel for the respondent has submitted that she did not want to file any reply and rather intended to argue the matter. She has submitted that the revision petition was filed beyond the date of limitation. The petitioners were informed by the electronic mode i.e. mobile No.98122-18886 on 31.08.2019, but they intentionally had not appeared before the Court concerned. They had failed to produce any document/proof either before the Revisional Court or before this Court, showing that mobile No.98122-18886, on which they had been informed by the process server about the issuance of summons in the complaint case, did not belong to them.

I have heard the learned counsel for the parties and with their able assistance, have gone through the case file.

As per the copy of the impugned order dated 04.02.2020 passed by the learned Sessions Judge, Mewat, the revision petition against the order dated 29.07.2019, was filed on 02.12.2019, whereas the process-server concerned informed the petitioners through electronic mode i.e. mobile No.98122-18886, on 31.08.2019.

The stand of the petitioners is that the said mobile number does not belong to them, but no such proof/record has been placed by them on record either before the learned Sessions Court or this Court, in this regard.

The contention of the learned counsel for the petitioners is that the petitioners came to know about the

passing of the order dated 29.07.2019 for the first time on 22.10.2019, when they had been so intimated on mobile no.9812218881, as is evident from the report (Annexure P.14) and that accordingly, they applied for the certified copy of the said order on 01.11.2019, which was delivered on 13.11.2019 and, ultimately, the revision petition was filed on 02.12.2019.

There is no merit in the said contention of the learned counsel for the petitioner. The petitioners, on the one hand, plead ignorance of the proceedings till 22.11.2019 and on the other hand, as noticed in the impugned order dated 04.02.2020 passed by the learned Sessions Judge, the petitioners had obtained the certified copy of the order passed by the trial Court on 13.11.2019.

Thus, when it stands established that the petitioners had obtained the certified copy of the order passed by the trial Court on 13.11.2019, their stand that they came to know about the pendency of the proceedings for the first time on 22.11.2019, stands falsified. Thus, no fault could be found with the order passed by the learned Sessions Judge, thereby dismissing the revision petition being time barred.

Even otherwise, if the case of the petitioner is examined on merit, taking it to be the one laying challenge to the summoning order passed by the trial Court and the order passed by the Revisional Court dismissing the revision petition there-against, suffice it to say that the petitioners have only been summoned and they are yet to lead evidence in support of their innocence before the trial Court. Thus, the summoning

order cannot be quashed so as to scuttle the criminal proceedings, at the very initial stage of the trial, especially when the petitioners have failed to establish that the initiation of the criminal proceedings, is an abuse of process of law. Hence, even on merit, I do not find any patent illegality or perversity in the impugned summoning order.

No other point has been urged.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

09.04.2021
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No