

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45278-2019
Date of decision : 22.12.2022

GULJARI LAL

... Petitioner

Versus

KOTAK MAHINDRA BANK

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ketan Antil, Advocate for the petitioner.

None for the respondent.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the Complaint No.NACT/18437 of 2018 dated 29.09.2018 (Annexure P-1) under Section 138 of the Negotiable Instruments Act, 1881, the order of summoning dated 01.10.2018 (Annexure P-2) passed by the Judicial Magistrate, 1st Class, Chandigarh, the order in revision dated 05.09.2019 (Annexure P-3) passed by the Additional Sessions Judge, Chandigarh and all subsequent proceedings arising therefrom.

2. The brief facts of the case as emanating from the pleadings are that a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act was filed by the respondent-Bank with the allegations that M/s Shri Hari Agro through its Proprietor Ms. Monika Goyal (borrower) had been granted a credit facility against collateral security as well as a personal guarantee of the guarantors including the petitioner-Guljari Lal. The respondent-Bank had sanctioned a credit facility amounting to Rs.1 crore. Since the borrower defaulted in

repayment of the credit facilities granted and renewed from time to time, the Bank made a demand of the amount due and all the credit facilities were recalled from the borrower as well as other guarantors including the petitioner. The petitioner issued a cheque No.006805 dated 16.07.2018 drawn on the State Bank of Bikaner and Jaipur, Hissar for an amount of Rs.50 lakhs in discharge of the legal liabilities towards part-payment of the total amount due in all the credit facilities. On presentation, the cheque was dishonoured with the remarks 'Funds Insufficient'.

Pursuant to the dishonour of the cheque, notice was issued and ultimately, a Complaint No.NACT/18437 of 2018 dated 29.09.2018 (Annexure P-1) under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 came to be filed.

Based on the complaint, the petitioner came to be summoned vide order dated 01.10.2018. The copy of the said order is annexed as Annexure P-2 to the petition.

Pursuant to the issuance of the summoning order, the petitioner preferred a Criminal Revision before the Court of the Additional Sessions Judge, Chandigarh and the same came to be dismissed vide order dated 05.09.2019 (Annexure P-3).

The present petition has been filed for quashing of the aforementioned Complaint No.NACT/18437 of 2018 dated 29.09.2018 (Annexure P-1), summoning order dated 01.10.2018 (Annexure P-2) and the order in revision dated 5.09.2019 (Annexure P-3) and subsequent proceedings arising therefrom.

3. When this matter had come up for hearing for the first time on 23.10.2019, the contention of the petitioner was recorded and the following order was passed:-

“Learned counsel for the petitioner submits that the cheque in question, though issued by the petitioner, was in respect of a liability qua a different loan agreement with the respondent-Bank, as had been entered into by the petitioners' brother-in-law Pehlad Raj Goyal, and that the petitioner never stood as a guarantor in respect of the loan advanced by the complainant to M/s Shree Hari Agro.

He further submits that the cheque has therefore been misused by the respondent-Bank.

He points to the sanction letter qua the loan (copy Annexure P-4) wherein the petitioners' name is not shown as a guarantor in the relevant column.

Notice of motion be issued to the respondent, returnable on 11.12.2019.

Process dasti also.

In the meanwhile, till the next date of hearing, proceedings against the petitioner shall remain stayed before the trial Court.

It is made clear that if the respondent is not shown to be served by the next date of hearing, the interim order would stand automatically vacated.

To be shown in the urgent motion list to determine as to whether the respondent has been served of the notice or not.”

4. The matter remained pending and the interim order was extended from time to time. Notice had been served and Mr. Nitin Ahluwalia, Advocate had appeared for the respondent-Bank on 11.12.2019. However, thereafter none has appeared for the respondent-

Bank. Fresh notice was issued which was received back unserved with the report that a copy of the petition had not been attached though earlier, the service of the respondent-Bank was complete. It is in this scenario, that the matter has come up for adjudication today.

5. The learned counsel for the petitioner contends that the allegations as levelled in the complaint that the petitioner had given the cheque in question as security for the credit facility availed by Monika Goyal, Proprietor M/s Shree Hari Agro firm is incorrect. A perusal of the sanction letter (Annexure P-4) would show that the guarantors of the loan were M/s Neeraj Goyal, Mr. Kartik Goyal, Ms. Salochana Devi, Pehlad Raj Goyal and Mrs. Komal Singhal. The name of the petitioner does not figure as a guarantor. He contends that the sanction letter (Annexure P-4) does not contain his signatures.

He contends that the cheque in dispute had been issued by the petitioner in view of the guarantee given for the loan of his brother-in-law Pehlad Raj Goyal who was having an account at the Hissar Branch. The disputed blank cheque was lying with the respondent-Bank only as a security cheque for Mr. Pehlad Raj Goyal. The respondent-Bank had willfully and with *mala fide* intention misused the cheque for the liability of M/s Shree Hari Agro. In fact, the petitioner had no concern and had never stood guarantor either for the said firm or for its proprietor Ms. Monika Goyal as alleged in the complaint.

He contends that the Revisional Court had also not appreciated the arguments of the petitioner in its proper prospective. The Trial Court and the Revisional Court had failed to appreciate that there

was no legal debt or any other liability existing at the time of the filing of the complaint against the present petitioner.

He further contends that as the complainant was a resident of Hisar and the complaint had been preferred at Chandigarh. The provisions of Section 202 Cr.P.C. with respect to the holding of an enquiry ought to have been complied with prior to the summoning of the petitioner.

6. I have heard the learned counsel for the petitioner.

7. Before proceeding further in the matter, it would be apposite to examine the law pertaining to the quashing of an FIR/complaint as recently enumerated by the Hon'ble Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra & others, 2021 SCC Online SC 315*, para 80 of which is extracted hereunder:-

“80. XXXXXXXXXXXX

i) XXXXXXXXXXXX

ii) XXXXXXXXXXXX

iii) XXXXXXXXXXXX

iv) XXXXXXXXXXXX

v) *While examining FIR/complaint, quashing of which is sought, court cannot embark upon enquiry as to reliability or genuineness or otherwise of allegations made in FIR/complaint;*

vi) XXXXXXXXXXXX

vii) *Quashing of a complaint/FIR should be exception rather than ordinary rule;*

xx”

[emphasis supplied]

In **Rajev Kourav Versus Baisahab & others, 2020(2) SCC 51,**

held as under:-

“6. It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.”

[emphasis supplied]

With respect to the necessity of holding an enquiry under Section 202 Cr.P.C. in cases under the Negotiable Instruments Act, the Hon'ble Supreme Court in the case of **Sunil Todi & others Vs. State of Gujarat & Another, 2022(1) RCR (Criminal) 395,** held as under:-

“31. The second submission which has been urged on behalf of the appellants turns upon section 202 CrPC, 1973 which is extracted:

"202. Postponement of issue of process.-(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under

section 192, may, if he thinks fit, 1 [and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,- (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath: Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant."

32. Under Sub-Section (1) of Section 202, a Magistrate upon the receipt of a complaint of an offence of which he/she is authorized to take cognizance is empowered to postpone the issuance of process against the accused and either (i) enquire into the case; or (ii) direct an

investigation to be made by a police officer or by such other person as he thinks fit. The purpose of postponing the issuance of process for the purposes of an enquiry or an investigation is to determine whether or not there is sufficient ground for proceeding. However, it is mandatory for the Magistrate to do so in a case where the accused is residing at a place beyond the area in which the Magistrate exercises jurisdiction. The accused persons in the present case reside at Aurangabad while the complaint under Section 138 was filed before the Magistrate in Mundra. The argument of the appellants is that in these circumstances, the Magistrate was duty bound to postpone the issuance of process and to either enquire into the case himself or to direct an investigation either by a police officer or by some other person. Section 203 stipulates that if the Magistrate is of the opinion on considering the statement on oath, if any, of the complainant and of the witnesses, and the result of the enquiry or investigation if any under Section 202 that there is no sufficient ground for proceeding, he shall dismiss the complaint recording briefly his reasons for doing so. The requirement of recording reasons which is specifically incorporated in Section 203 does not find place in Section 202. Section 204 which deals with the issuance of process stipulates that if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, he may issue (a) in a summons case, a summons for attendance of the accused; (b) in a warrant case, a warrant or if he thinks fit a summons for the appearance of the accused. These proceedings have been interpreted in several judgments of this Court. For the purpose of the present case, some of them form the subject matter of the submissions by the appellants and the second respondent.

33. The provisions of Section 202 which mandate the Magistrate, in a case where the accused is residing at a place beyond the area of its jurisdiction, to postpone the issuance of process so as to enquire into the case himself or direct an investigation by police officer or by another person were introduced by Act 25 of 2005 with effect from 23 June 2006. The rationale for the amendment is based on the recognition by Parliament that false complaints are filed against persons residing at far off places as an instrument of harassment. In *Vijay Dhanuka v. Najima Mamtaaj*, (2014) 14 SCC 638, this Court dwelt on the purpose of the amendment to Section 202, observing:

"11. Section 202 of the Code, inter alia, contemplates postponement of the issue of the process 'in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction' and thereafter to either inquire into the case by himself or direct an investigation to be made by a police officer or by such other person as he thinks fit. In the face of it, what needs our determination is as to whether in a case where the accused is residing at a place beyond the area in which the Magistrate exercises his jurisdiction, inquiry is mandatory or not.

12. The words 'and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction' were inserted by section 19 of the Code of Criminal Procedure, 1973 (Amendment) Act (Central Act 25 of 2005) w.e.f. 23-6-2006. The aforesaid amendment, in the opinion of the legislature, was essential as false complaints are filed against persons residing at far-off places in order to harass them. The note for the amendment reads as follows:

'False complaints are filed against persons residing at far-off places simply to harass them. In order to see that innocent persons are not harassed by unscrupulous persons, this clause seeks to amend sub-section (1) of Section 202 to make it obligatory upon the Magistrate that before summoning the accused residing beyond his jurisdiction he shall enquire into the case himself or direct investigation to be made by a police officer or by such other person as he thinks fit, for finding out whether or not there was sufficient ground for proceeding against the accused.'

The use of the expression "shall" prima facie makes the inquiry or the investigation, as the case may be, by the Magistrate mandatory. The word "shall" is ordinarily mandatory but sometimes, taking into account the context or the intention, it can be held to be directory. The use of the word "shall" in all circumstances is not decisive. Bearing in mind the aforesaid principle, when we look to the intention of the legislature, we find that it is aimed to prevent innocent persons from harassment by unscrupulous persons from false complaints. Hence, in our opinion, the use of the expression "shall" and the background and the purpose for which the amendment has been brought, we have no doubt in our mind that inquiry or the investigation, as the case may be, is mandatory before summons are issued against the accused living beyond the territorial jurisdiction of the Magistrate."

34. This Court has held that the Magistrate is duty bound to apply his mind to the allegations in the

complaint together with the statements which are recorded in the enquiry while determining whether there is a prima facie sufficient ground for proceeding. In Mehmood UI Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420, this Court followed the dictum in Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749, and observed that setting the criminal law in motion against a person is a serious matter. Hence, there must be an application of mind by the Magistrate to whether the allegations in the complaint together with the statements recorded or the enquiry conducted constitute a violation of law. The Court observed:

"20. The extensive reference to the case law would clearly show that cognizance of an offence on complaint is taken for the purpose of issuing process to the accused. Since it is a process of taking judicial notice of certain facts which constitute an offence, there has to be application of mind as to whether the allegations in the complaint, when considered along with the statements recorded or the inquiry conducted thereon, would constitute violation of law so as to call a person to appear before the criminal court. It is not a mechanical process or matter of course. As held by this Court in Pepsi Foods Ltd. v. Judicial Magistrate [Pepsi Foods Ltd. v. Judicial Magistrate, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400] to set in motion the process of criminal law against a person is a serious matter."

"22. The steps taken by the Magistrate under section 190(1)(a) CrPC, 1973 followed by section 204 CrPC, 1973 should reflect that the Magistrate has applied his mind to the facts and the

statements and he is satisfied that there is ground for proceeding further in the matter by asking the person against whom the violation of law is alleged, to appear before the court. The satisfaction on the ground for proceeding would mean that the facts alleged in the complaint would constitute an offence, and when considered along with the statements recorded, would, prima facie, make the accused answerable before the court. No doubt, no formal order or a speaking order is required to be passed at that stage. The Code of Criminal Procedure requires speaking order to be passed under section 203 CrPC, 1973 when the complaint is dismissed and that too the reasons need to be stated only briefly. In other words, the Magistrate is not to act as a post office in taking cognizance of each and every complaint filed before him and issue process as a matter of course. There must be sufficient indication in the order passed by the Magistrate that he is satisfied that the allegations in the complaint constitute an offence and when considered along with the statements recorded and the result of inquiry or report of investigation under section 202 CrPC, 1973 if any, the accused is answerable before the criminal court, there is ground for proceeding against the accused under section 204 CrPC, 1973 by issuing process for appearance. The application of mind is best demonstrated by disclosure of mind on the satisfaction. If there is no such indication in a case where the Magistrate proceeds under Sections 190/204 CrPC, the High Court under section 482 CrPC, 1973 is bound to invoke its inherent power in order to prevent abuse of the power of the criminal court. To be called to appear

before the criminal court as an accused is serious matter affecting one's dignity, self-respect and image in society. Hence, the process of criminal court shall not be made a weapon of harassment."

These decisions were cited with approval in Abhijit Pawar v. Hemant Madhukar Nimbalkar, (2017) 3 SCC 528. After referring to the purpose underlying the amendment of Section 202, the Court observed:

"25. ... the amended provision casts an obligation on the Magistrate to apply his mind carefully and satisfy himself that the allegations in the complaint, when considered along with the statements recorded or the enquiry conducted thereon, would prima facie constitute the offence for which the complaint is filed. This requirement is emphasised by this Court in a recent judgment Mehmood Ul Rehman v. Khazir Mohammad Tunda [Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420 : (2016) 1 SCC (Cri) 124]..."

35. While noting that the requirement of conducting an enquiry or directing an investigation before issuing process is not an empty formality, the Court relied on the decision in Vijay Dhanuka which had held that the exercise by the Magistrate for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused is nothing but an enquiry envisaged under Section 202 of the Code.

36. In Birla Corporation Ltd. v. Adventz Investments and Holdings, (2019) 16 SCC 610, the earlier decisions which have been referred to above were cited in the course of the judgment. The Court noted:

"26. The scope of enquiry under this section is extremely restricted only to finding out the truth or otherwise of the allegations made in the complaint

in order to determine whether process should be issued or not under section 204 CrPC, 1973 or whether the complaint should be dismissed by resorting to section 203 CrPC, 1973 on the footing that there is no sufficient ground for proceeding on the basis of the statements of the complainant and of his witnesses, if any. At the stage of enquiry under section 202 CrPC, 1973 the Magistrate is only concerned with the allegations made in the complaint or the evidence in support of the averments in the complaint to satisfy himself that there is sufficient ground for proceeding against the accused."

Hence, the Court held:

"33. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. The application of mind has to be indicated by disclosure of mind on the satisfaction. Considering the duties on the part of the Magistrate for issuance of summons to the accused in a complaint case and that there must be sufficient indication as to the application of mind and observing that the Magistrate is not to act as a post office in taking cognizance of the complaint, in Mehmood Ul Rehman [Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420 : (2016) 1 SCC (Cri) 124]..."

The above principles have been reiterated in the judgment in Krishna Lal Chawla v. State of U.P, (2021) 5 SCC 435.

37. In this backdrop, it becomes necessary now to advert to an order dated 16 April 2021 of a Constitution Bench in Re: Expeditious Trial of Cases under section 138 of N.I. Act 1881[26]. The Constitution Bench notes "the*

gargantuan pendency of complaints filed under Section 138" and the fact that the "situation has not improved as courts continue to struggle with the humongous pendency". The court noted that there were seven major issues which arose from the responses filed by the State Governments and the Union Territories including in relation to the applicability of section 202 of the CrPC, 1973. section 143 of the NI Act provides that sections 262 to 265 of the CrPC, 1973 (forming a part of Chapter XXI dealing with summary trials) shall apply to all trials for offences punishable under section 138 of the NI Act. On the scope of the inquiry under section 202 CrPC, 1973 in cases under section 138 of the NI Act, there was a divergence of view between the High Courts. Some High Courts had held that it was mandatory for the Magistrate to conduct an inquiry under section 202 CrPC, 1973 before issuing process in complaints filed under Section 138, while there were contrary views in the other High Courts. In that context, the Court observed:

[26 Suo Motu Writ Petition (Crl) No. 2 of 2020, decided on 16 April 2021]*

"10. Section 202 of the Code confers jurisdiction on the Magistrate to conduct an inquiry for the purpose of deciding whether sufficient grounds justifying the issue of process are made out. The amendment to Section 202 of the Code with effect from 23.06.2006, vide Act 25 of 2005, made it mandatory for the Magistrate to conduct an inquiry before issue of process, in a case where the accused resides beyond the area of jurisdiction of the court. (See: Vijay Dhanuka & Ors. v. Najima Mamtaj & Ors., (2014) 14 SCC 638, Abhijit Pawar v. Hemant Madhukar Nimbalkar and Anr., (2017) 3 SCC 528 and Birla Corporation Limited v. Adventz Investments and Holdings Limited & Ors., (2019) 16 SCC 610). There has been a divergence

of opinion amongst the High Courts relating to the applicability of Section 202 in respect of complaints filed under Section 138 of the Act. Certain cases under Section 138 have been decided by the High Courts upholding the view that it is mandatory for the Magistrate to conduct an inquiry, as provided in Section 202 of the Code, before issuance of process in complaints filed under Section 138. Contrary views have been expressed in some other cases. It has been held that merely because the accused is residing outside the jurisdiction of the court, it is not necessary for the Magistrate to postpone the issuance of process in each and every case. Further, it has also been held that not conducting inquiry under Section 202 of the Code would not vitiate the issuance of process, if requisite satisfaction can be obtained from materials available on record.

11. The learned Amici Curiae referred to a judgment of this Court in K.S. Joseph v. Philips Carbon Black Ltd & Anr. where there was a discussion about the requirement of inquiry under Section 202 of the Code in relation to complaints filed under Section 138 but the question of law was left open. In view of the judgments of this Court in Vijay Dhanuka (supra), Abhijit Pawar (supra) and Birla Corporation (supra), the inquiry to be held by the Magistrate before issuance of summons to the accused residing outside the jurisdiction of the court cannot be dispensed with. The learned Amici Curiae recommended that the Magistrate should come to a conclusion after holding an inquiry that there are sufficient grounds to proceed against the accused. We are in agreement with the learned Amici."

38. section 145 of the NI Act provides that evidence of the complainant may be given by him on affidavit, which shall be read in evidence in an inquiry, trial or other proceeding

notwithstanding anything contained in the CrPC. The Constitution Bench held that Section 145 has been inserted in the Act, with effect from 2003 with the laudable object of speeding up trials in complaints filed under Section 138. Hence, the Court noted that if the evidence of the complainant may be given by him on affidavit, there is no reason for insisting on the evidence of the witnesses to be taken on oath. Consequently, it was held that section 202(2) CrPC, 1973 is inapplicable to complaints under Section 138 in respect of the examination of witnesses on oath. The Court held that the evidence of witnesses on behalf of the complainant shall be permitted on affidavit. If the Magistrate holds an inquiry himself, it is not compulsory that he should examine witnesses and in suitable cases the Magistrate can examine documents to be satisfied that there are sufficient grounds for proceeding under Section 202.”

39. In the present case, the Magistrate has adverted to:

- (i) The complaint;
- (ii) The affidavit filed by the complainant;
- (iii) The evidence as per evidence list and; and
- (iv) The submissions of the complainant.”

[emphasis supplied]

8. Coming back to the facts of the present case, the primary contention of the petitioner is that the petitioner had not stood as a guarantor for the loan obtained by M/s Shree Hari Agro or its proprietor Ms. Monika Goyal. In fact, a blank signed cheque which he had given as a security at the time of standing guarantor in the loan of Shri Pehlad Raj Goyal, his brother-in-law had been misused. The said ground was the precise ground which had been taken by the petitioner before the Revisional Court and the Court had declined to interfere with the order of summoning. It may be pertinent to mention here that the stand of the

petitioner that the cheque in question had been given as a security for the loan availed by Shri Pehlad Raj Goyal is not borne out from the record. The petitioner, neither at the revisional stage nor before this Court has produced any document to show that Shri Pehlad Raj Goyal, his brother-in-law had obtained a loan for which the said cheque had been issued as a security. Interestingly, document (Annexure P-4) which is the loan sanction letter with respect to M/s Shree Hari Agro shows Shri Pehlad Raj Goyal as one of the guarantors though, the petitioner is not shown as such. Further, Ms. Monika Goyal, the proprietor of Shree Hari Agro happens to be the niece of the petitioner. Therefore, whether or not the cheque was issued in the discharge of a legal liability by the petitioner or was misused by the respondent-complainant would be a matter of adjudication during trial as it is a disputed question of fact. The Court cannot embark upon an enquiry as to the reliability or genuineness of the allegations made in the FIR/complaint and the defence of the accused cannot be looked at by the Court in summary proceedings under Section 482 Cr.P.C. as is borne out from the judgments in the case of Neeharika Infrastructure Pvt. Ltd. (supra) and Rajeev Kourav (supra).

9. So far as the requirement of an inquiry under Section 202 Cr.P.C. is concerned, in Sunil Todi's case (supra), the Hon'ble Supreme Court has made it clear that once the witnesses had been examined on oath, or had deposed even by way of an affidavit, the holding of an inquiry by the Magistrate was not required. In the present case, a perusal of the summoning order would reveal that the Court has clearly opined that the complaint, affidavit and documents on record *prima facie* established that an offence under the Negotiable Instruments Act had been committed and

thereby had proceeded to summon the petitioner. The Revisional Court after considering the arguments raised by the petitioner has reiterated the *prima facie* findings arrived at by the summoning Court. Therefore, no further enquiry is necessary in the instant case as the summoning order does not in anyway betray non-application of mind.

10. In view of the above discussion, I find no merit in the present petition and the same is hereby dismissed.

11. However, it is made clear that the observations made in this order are only for the purposes of deciding this petition and the Trial Court is free to proceed with the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

22.12.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No