

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

Date of decision : 29.10.2022

1. CRR-1501-2015

Ramesh Kumar and another

..... Petitioners

versus

Narain Dass and others

..... Respondents

2. CRR-1510-2015

Ramesh Kumar and another

..... Petitioners

versus

Prem Chand and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

**Present: Mr. Sachin Mittal, Advocate
for the petitioners.**

**Mr. Samir Rathore, Advocate for
Mr. Sumeet Goel, Advocate
for respondents No.1 & 2.**

Mr. Gaurav Gurcharan Singh, DAG, Haryana.

PANKAJ JAIN, J.

By way of present judgment, I intend to dispose off above said two revision petitions as common question of law and facts are involved therein. For the sake of convenience, facts are being taken from CRR-1501-2015.

2. Complainants are in revision against the order passed by the Revisional Court, whereby summoning order passed by JMIC, Gurgaon dated 23.05.2013 summoning the respondents has been set aside resulting into dismissal of the complaint filed by the petitioners.

3. As per the complaint, petitioner No.1 claims that as a part of conspiracy on 02.05.2002, he was abducted by the accused and was forced to sign some blank papers. He was threatened not to open his mouth. A pronote of Rs.1,50,000/- dated 02.05.2002 and a cheque bearing No.496645 dated 11.06.2002 amounting to Rs.40,000/- and another cheque bearing No.954281 dated 03.06.2002 amounting to Rs.1,00,000/- was also taken from him. It is further claimed that again on 29.09.2002, the accused entered the house of the complainant by breaking the locks and took away his belongings. He submits that he filed complaint on 30.09.2002, but the same did not bear any result owing to political influence of accused Prem Chand. He further claims that the accused are in possession of House No.1892/21 belonging to the complainant and his wife on the basis of forged document prepared by them. In the complaint instituted in the year 2010, trial Court summoned the respondents vide order dated 23.05.2013 held that:-

“xx xx xx

In Gurdeep Kaur Vs. Balbir Singh & Others, 2005 (2) RCR(Cr) 205, it was held that it is an established law that at the time of summoning an accused in a complainant case, trial Magistrate is supposed to look into allegations as leveled in the complaint or averred at the time when preliminary evidence is led. Trial Magistrate has to be, a prime-facie, satisfied as to whether, there are sufficient grounds for proceeding against the accused named in the complaint or not. It is not the duty of Trial Magistrate to enter into detailed discussion on the merits or demerits of the case. At the stage of summoning, regular trial for adjudicating guilt or otherwise of the persons complained against is not

envisaged.

The perusal of the complaint shows that there are specific allegations against accused no.1 to 5 under Sections 420/406/467/468/470/471/120B of IPC. There is sufficient proof prime facie on the record to summon accused no. 1 to 5 under these Sections. However, by no evidence, offence under Section 406 IPC is made out against accused no. 6 and 7. Therefore, accused no. 6 and 7 are ordered to be summoned under sections 420/467/468/470/471/120B of IPC. Therefore, accused no. 1 to 5 are ordered to be summoned under Sections 420/406/467/468/470/471/120B of IPC and accused no. 6 and 7 are ordered to be summoned under Sections 420/467/468/470/471/120B of IPC on filing of copy of complaint, PF etc. by way of summons for 18.7.2013.”

4. In the revision preferred by the respondent-accused, the Revisional Court has held:-

“XX XX XX

I am of the view that no prima facie case is made out for summoning of the revisionists-accused and the impugned order is liable to be set aside. The sale deed in question dated 2.5.2002 is a registered document. Therefore, there is presumption of correctness attached to it. Moreover, the civil suit no.41 of 2013 Ex.PW3/A (for declaring the sale deed dated 2.5.2002 to be null and void) stands already dismissed. Learned counsel for the complainants could not dispute this fact although he submitted that an appeal is pending against the said dismissal in the first appellate court. Although where an offence is punishable with more than three years of the imprisonment, there is no limitation to take cognizance as per Section 468 of Cr.PC, but the fact that there is

huge delay can not altogether be ignored while determining whether there is an existence of a prima facie case or not. The complainants filed the present complaint in the year 2010 whereas the sale deed is dated 2.5.2002. Thus there is huge delay of about eight years in filing the complaint. The only explanation given by the complainants is that they had approached the police and because of the political influence of the accused FIR was not registered. If that was so nothing stopped the complaints from approaching the criminal court earlier when the police had refused to register the FIR. It clearly transpires that the complainants have lost in the civil suit in the learned trial court and they want to coerce the revisionists to meet to their demands by way of the present criminal complaint. I am of the view that the dispute between the parties is of civil nature; civil suit having already been dismissed. Further complainant Ramesh Kumar had filed a complaint under Negotiable Instruments Act against Kanti Parsad revisionist no 4 with regard to the issuance of cheque regarding the transaction of the sale deed in question dated 2.5 2002. The said complaint is Ex.PW4/A. In the said complaint under the Negotiable Instruments Act the allegations put forth by the complainant Ramesh Kumar are different than have been levelled in the present complaint. In the said complaint under the Negotiable Instruments Act Ex.PW4/A in para no.2 the complainant Ramesh Kumar alleged that he was goaded and persuaded by the accused and other persons named as Manoj to sell his plot and house built over it. Apparently the version given in the said complaint Ex.PW4/A is completely different than in the present complaint. So far as the occurrence dated 29.09.2002 mentioned in the present complaint is concerned the complainant Ramesh

Kumar already filed a separate complaint Ex.PW4/C in that regard.”

5. Learned counsel for the petitioners has not been able to point out any infirmity in the order passed by Revisional Court warranting interference by this Court while exercising jurisdiction under Section 482 Cr.P.C. Parameters w.r.t. exercise of jurisdiction under Section 482 Cr.P.C. are well settled. In ***Inder Mohan Goswami vs. State of Uttaranchal, 2007(4) RCR (Criminal) 548 (2007) 12 SCC 1***, this Court observed as under:-

“xx xx xx

23. This court in a number of cases has laid down the scope and ambit of courts powers under [section 482](#) Cr.P.C. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under [section 482](#) Cr.P.C. can be exercised:

- (i) to give effect to an order under [the Code](#);
- (ii) to prevent abuse of the process of court, and
- (iii) to otherwise secure the ends of justice.

24. Inherent powers under [section 482](#) Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.”

6. In view of the aforesaid settled proposition of law, no fault can be found with the orders passed by the Revisional Court. The Court below rightly found that the complaint filed by the petitioner after delay of 08 years does not inspire confidence and seems to be a ploy to create evidence in the civil litigation pending qua the property between the parties.

7. Trite it is that at the time of summoning, the Court is required to apply its mind and cannot act mechanically as summoning in a criminal case has serious consequences.

8. As a sequel of the discussion hereinabove, the present revision petitions are ordered to be dismissed being without merit.

**(PANKAJ JAIN)
JUDGE**

29.10.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No