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

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**CRM-M-8625-2018 (O&M)
Date of decision : 16.10.2023**

Suresh Kumar

..... Petitioner

versus

Satyawan Sharma

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Manoj K. Tanwar, Advocate
for the petitioner.

Ms. Neha Dewan, Advocate
for the respondent.

PANKAJ JAIN, J.

1. Present revision petition filed under Section 482 Cr.P.C. is directed against the order dated 12.04.2017 passed by Additional Sessions Judge, Narnaul, accepting the revision filed by the respondent against order dated 05.03.2015 passed by JMIC, Mohindergarh, quashing the summoning order in complaint No.91 of 2014.

2. Petitioner filed criminal complaint against the respondent alleging that on 04.07.2014, respondent and one Rajbir broke the doll between the fields of petitioner and respondent and when he objected gave him beatings.

3. After the petitioner led preliminary evidence, trial Court vide order dated 05.03.2015, summoned the respondent-Satyawan Sharma and Rajbir qua offences punishable under Sections 323/447/34 of IPC to face trial.

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4. Respondent preferred revision petition. The same stands accepted by the revisional Court observing as under:-

“Learned trial court vide order dated 05.03.2015 passed order regarding the summoning of the petitioner under sections 323, 447 IPC. After going through the lower court record it has come to the notice of this court that an application was moved by the respondent to SHO Police Station, Kanina on 5.7.2014 regarding the alleged occurrence and on the same day another application was also moved to the then DSP, Kanina. The matter was investigated by the Police of Police Station, Kanina and from the documents placed on court file i.e. report of Babu Lal ASI who investigated the matter it is found that the allegations levelled by the respondent against the petitioner were false one and there is a civil matter pending between the parties to the revision at civil court Mahendergarh. It is specifically mentioned in this report that on 4.7.2014 no such type of dispute had taken place between the parties to the revision. Even one of the petitioner Satyawar Sharma was not in good health for the last three years. Said report was placed on court file by the petitioner through RTI Act, 2005-2009 which is Ex.PW1/A. Moreover, report of Local Commissioner regarding the land of parties to the revision has also been placed on the court file. A perusal of the same it is revealed that it is the mother of the respondent who had illegally occupied some portion of the land of the petitioner and this might be the genesis of the civil case pending between the parties to the revision at civil court Mahendergarh. No MLR has been placed on the court file to show that in fact the

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respondent was severally beaten by the petitioner. The complaint against the petitioner by the respondent seems to be nothing but a counter blast of the civil suit pending between the parties to the revision. This court finds substance in the present revision petition moved by the petitioner and the same is hereby accepted. The impugned order dated 05.03.2015 is hereby set-aside. Copy of this order be sent back to the court concerned for compliance. Trial court record be sent back. Revision file be consigned to the record room, after due compliance.”

5. Learned counsel for the petitioner has not been able to point out any material infirmity in the order passed by revisional Court. It is not denied that there is already a civil suit filed at the behest of petitioner pending before Civil Court, Mahendergarh alleging that the mother of respondent has illegally occupied portion of the land of the petitioner. No MLR was placed on record to corroborate allegations of injury suffered by the petitioner in the occurrence.

6. Thus, in view of above, this Court does not think that any fault can be found with the revisional Court exercising jurisdiction to set aside the summoning order. It is settled proposition of law that taking cognizance of an offence under section 190(1) of the Cr.PC., 1973 and issue of process under Section 204 are judicial functions and require a judicious approach. The proposition is based on fundamental principles of justice. A person against whom no offence is disclosed cannot be put to any harassment by the issue of process. Order issuing of process must reflect application of judicial mind to the material before the court to determine if there is ground for proceedings against

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the accused. When the allegations made in the complaint are too vague to constitute essential ingredients of the offence alleged against the accused then the order of the Magistrate issuing process on the basis of the complaint would not be justified. There need to be prima facie material calling for issuance of process. This court is fortified by the law being reiterated by Supreme Court including that in ***Subramanian Swamy Versus Union of India, Ministry of Law & Ors. 2016 (7) SCC 221.***

7. Object of the revisional jurisdictions is to confer power on superior criminal courts to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precaution or apparent harshness of treatment. This Court after analysing the impugned order is satisfied that revisional Court correctly found the summoning order leading to miscarriage of justice and thus rightly exercised its jurisdiction.

8. In view of above, present petition is dismissed.

(PANKAJ JAIN)
JUDGE

16.10.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No