

S.No.202

RENU
2023.01.20 16:52

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

CRM-M-36602 of 2021

Date of Decision:19.01.2023

Oriental Bank of Commerce and othersPetitioners

Vs.

Rajesh Kumar Sharma

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ankur Bansal, Advocate for the petitioners.

None for the respondent.

DEEPAK GUPTA, J.

Criminal complaint bearing No.COMI490/2015 titled “Rajesh Kumar Sharma Vs. Oriental Bank of Commerce and others”, was filed by respondent of this revision petition, namely, Rajesh Kumar Sharma so as to prosecute the petitioners – Oriental Bank of Commerce and others under Sections 499 and 500 IPC in the Court of learned JMIC, Amritsar. After recording preliminary evidence, the learned Magistrate dismissed the complaint vide order dated 28.09.2017 (Annexure P.3) without issuing the process. However, in the revision filed by respondent- complainant, said order was set aside and the matter was remanded back to the trial Court to proceed further in accordance with law.

The accused as arrayed in the complaint are the petitioners before this Court, who have challenged the order dated 17.01.2019, passed by learned Additional Sessions Judge, Amritsar (Annexure P.6) and the subsequent summoning order dated 17.01.2020 (Annexure P.7) passed by learned Judicial Magistrate Ist Class, Amritsar. It is contended by learned counsel for the petitioners that once the complaint was dismissed after

recording preliminary evidence without issuing process, it was mandatory for the revisional Court to issue notice to the accused in revision petition. Learned counsel for the petitioners has referred to Manharibhai Muljibhai Kakadia and another Vs. Shaileshbhai Mohanbhai Patel and others, 2012(4) (Criminal) 689 wherein complaint was dismissed by the Magistrate. Revision against the dismissal was filed. It was held by Hon'ble Supreme Court that accused has a right to be heard by the Revisional Court.

The aforesaid authority is fully applicable to the facts of this case. Despite service of notice to the respondent, he has not appeared to contest the petition. The order dated 17.01.2019, passed by learned Additional Sessions Judge, Amritsar (Annexure P.6) and the subsequent summoning order dated 17.01.2020 (Annexure P.7) passed by learned Judicial Magistrate Ist Class, Amritsar are hereby set aside. The matter is remanded back to the Court of learned Additional Sessions Judge, Amritsar, who shall serve notice to the petitioners- accused and then decide the revision accordingly.

Disposed of.

January 19, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No