



CRM-M-11055-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11055-2024 (O&M)

Date of decision:05.06.2024

Ram Kishan thr. his LRs

...Petitioner

V/s

Naveen Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Krishan Singh, Advocate for the petitioner.

Mr. Tejasvi Sheokand, Advocate for respondent Nos.1 to 3.

Ms. Mahima Yashpal, DAG, Haryana.

SUMEET GOEL, J.

1. The present petition has been filed, under Section 482 of the Code of Criminal Procedure Code of 1973 (*hereinafter to be referred as "Cr.P.C., 1973"*), by the petitioner for quashing of order dated 26.10.2016 (Annexure P-2) passed by Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari, Haryana whereby complaint filed by the petitioner was dismissed & for quashing of order dated 24.11.2023 passed by Additional Sessions Judge, Yamuna Nagar at Jagadhari, Haryana whereby revision petition preferred by the petitioner (herein) against the above-said order dated 26.10.2016 passed by the Magistrate has also been dismissed.

2. The petitioner had filed a complaint against the private respondents (respondent Nos.1 to 3 herein) alleging commission of offences under Sections 323, 354, 452, 506 & 509 of IPC. It was, *inter alia*, alleged that one Jangsher Singh was Mahant in balmiki temple situated in village Dyalgarh, Tehsil Jagadhri, District Yamuna Nagar. An FIR No.48 dated

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09.04.2013 under Section 354-A of IPC at Police Station Buria was got registered by one Mukesh Kumar on the basis of false and concocted story alleging teasing of Veena Rani by the said Mahant. However, in the intervening night of 08/09.04.2013, the petitioner-complainant (herein) alongwith his family members and other villagers, when came to know about the registration of the aforesaid FIR, reached the police station to clarify that Mahant Jangsher Singh was innocent and false allegations had been levelled against him. It was further alleged that when the matter was being discussed, the accused persons (respondent Nos.1 to 3 herein) started abusing and beating the complainant and his family members with stick without any reason. It was further alleged that the private respondents (herein) caused various injuries to them and also tried to outrage the modesty of her daughter-in-law besides assaulting her. Thereafter, on 09.04.2013, the complainant and his family members got themselves medically examined at Civil Hospital, Jagadhri but no ruqa was sent by the doctors to the Police. Aggrieved by the atrocities caused by the private respondents, the complainant (petitioner herein) moved an application/representation to the Superintendent of Police, Yamuna Nagar on 09.04.2013 but no action was taken which necessitated the petitioner to file the instant complaint before the learned Judicial Magistrate Ist Class, Jagadhari. Vide order dated 26.10.2016, the Magistrate declined to summon the private respondents (herein) finding that there exist no sufficient grounds to summon the accused persons and accordingly the complaint was dismissed. The revision petition preferred by the petitioner (herein) before the Sessions Court also met the same fate and hence was dismissed vide order dated 24.11.2023. It is in this



factual backdrop, the petitioner has chosen to prefer the present petition for quashing of the abovesaid two orders.

3. Learned counsel for the petitioner has argued that the Courts below have erred in not appreciating the facts of the case in so much as the private respondents (herein) have inflicted injuries upon the petitioner (herein); only a *prima facie* case was to be seen by the Court at the time of issuing of summons to the private respondents (herein) & there was sufficient evidence brought on record by the petitioner which has not been looked into appropriately by the Courts below. Therefore, it is submitted that the present petition be accepted and the impugned orders be quashed.

3.1. Learned counsel appearing for the private respondents (respondent Nos.1 to 3) has raised preliminary submission that the present petition, though filed under Section 482 of Cr.P.C. of 1973, is not maintainable as it is, infact, a second revision petition preferred by the petitioner-complainant which is barred under Sections 397(3) and 399(2) of Cr.P.C of 1973. It has, thus, been submitted that the instant petition deserves to be rejected on account of being not maintainable. On merits of the *lis*, it has been argued that the Magistrate has considered the entire material, brought on record by the petitioner, in correct perspective and has rightly declined to summon the private respondents (herein) for facing trial. It has been further argued that the private respondents (herein) were police officials who were performing their duty in accordance with law and the complaint in question was filed only with a view to harass and humiliate them. Therefore, dismissal of the instant petition is prayed for.



3.2. Learned State counsel has, very fairly, submitted that the complaint in question being a private complaint, the State has no cause to plead at this stage.

4. I have heard learned counsel for the parties and have perused the available record.

Prime Issue

5. The prime issue that arises for consideration in the present petition is as to whether the impugned orders whereby summoning of the private respondents, as accused to face trial, is declined has rightly been passed by the Courts below. The analogous legal issue that arises for consideration is whether a petition under Section 482 of Cr.P.C., 1973 is maintainable in a case where such a petition tantamounts to being a second criminal revision petition by same person in view of statutory prohibitions contained in Sections 397(3) and 399(2) of Cr.P.C. 1973.

Relevant Statutory provisions

6. Code of Criminal Procedure, 1973

Section 397 of Cr.P.C., 1973 reads as under:-

“397. Calling for records to exercise of powers of revision.—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to



be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

Section 399 of Cr.P.C., 1973 reads as under:-

“399. Sessions Judge's powers of revision.—(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.”

Section 401 of Cr.P.C., 1973 reads as under:-

“401. High Court's powers of revision.—(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by Sections 386, 389, 390 and 391 or on a Court of Session by section 307, and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.



(3) *Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one conviction.*

(4) *Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.*

(5) *Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.”*

Section 482 of Cr.P.C., 1973 reads as under:-

“482. Saving of inherent powers of High Court.- *Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”*

Section 483 of Cr.P.C., 1973 reads as under:-

“483. Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates.— *Every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.*

Relevant Case Law

7. The precedents, *apropos* to the matter(s) in issue are as follows:

(i) In a judgment titled as ***Raj Kapoor and others vs. State (Delhi Administration) and others, 1980 AIR 258***, the Hon’ble Supreme Court has held as under:-

“10. The first question is as to whether the inherent power of the High Court under Section 482 stands repelled when the revisional power under Section 397 overlaps. The opening words of Section 482 contradict this contention because nothing in the Code, not even Section 397 can affect the amplitude of the inherent power preserved in so many terms by the



language of Section 482. Even so, a general principle pervades this branch of law when a specific provision is made; easy resort to inherent power is not right except under compelling circumstances. Not that there is absence of jurisdiction but that inherent power should not invade areas set apart for specific power under the same Code. In Madhu Limaye's case AIR 1978 Supreme Court 47 this Court has exhaustively and, if I may say so with great respect, correctly discussed and delineated the law beyond mistake. While it is true that Section 482 is pervasive it should not subvert legal interdicts written into the same Code, such, for instance, in Section 397(2). Apparent conflict may arise in some situations between the two provisions and a happy solution:

"would be to say that the bar provided in sub-section (2) of Section 397 operates only in exercise of the revisional power of the High Court meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one or the other principle enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the aggrieved party. But then if the order assailed is purely on an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction."(at p.51)

In short, there is no total ban on the exercise of inherent power where abuse of the process of the court or other extra-ordinary situation excites the court's jurisdiction. The limitation is self-restraint, nothing more. The policy of the law is clear that interlocutory orders, pure and simple, should not be taken up to the High Court resulting in unnecessary litigation and delay. At the other extreme, final orders are clearly capable of being considered in exercise of inherent power, if glaring injustice stares the



court in the face. In between is a tertium quid, as Untwalia, J. has pointed out as for example, where it is more than a purely interlocutory order and less than a final disposal. The present case falls under that category where the accused complain of harassment through the courts process. Can we state that in this third category the inherent power can be exercised ? In the words of Untwalia. J.:

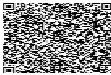
"The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial. The High Court can examine the matter in an appropriate case under its inherent powers. The present case undoubtedly falls for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, although not accepting, that invoking the revisional power of the High Court is impermissible."

(ii) In a judgment titled as ***Krishnan vs. Krishnaveni and another***,

AIR 1997 SUPREME COURT 987, the Hon'ble Supreme Court has held as

under:-

"10. Ordinarily, when revision has been barred by Section 397(3) of the Code, a person accused/complainant - cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent powers of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or section 397(2) of the Code. It is seen that the High Court has suo motu power under Section 401 and continuous supervisory jurisdiction under Section 483 of the Code. So, when the High Court on examination of the record finds that there is grave miscarriage of justice or abuse of process of the courts or the required statutory procedure has not been complied with or there is failure of justice or order passed or sentence imposed by the Magistrate requires correction, it is but the duty of the High Court to have it corrected at the inception lest grave miscarriage of justice would ensue. It is, therefore, to meet the ends of justice or to prevent abuse of the process that the High Court is preserved with inherent power and would be justified, under such circumstances, to exercise the inherent power and in an appropriate case even revisional power under Section 397(1) read with Section 401 of the Code. As stated earlier, it may be exercised



sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings. xxxx xxxx xxxx xxxx”

(iii) In a judgment titled as **Ganesh Narayan Hegde vs. S. Bangarappa and others, 1995 SCC (4) 41**, the Hon’ble Supreme Court has held as under:-

“12. While it is true that availing of the remedy of the revision to the Sessions Judge under Section 399 does not bar a person from invoking the power of the High Court under Section 482, it is equally true that the High Court should not act as a second Revisional Court under the garb of exercising inherent powers. While exercising its inherent powers in such a matter it must be conscious of the fact that the learned Sessions Judge has declined to exercise his revisory power in the matter. The High Court should interfere only where it is satisfied that if the complaint is allowed to be proceeded with, it would amount to abuse of process of Court or that the interests of justice otherwise call for quashing of the charges. xxxxxx”

(iv) In a judgment titled as **Shakuntala Devi and others vs. Chamru Mahto & Anr., AIR 2009 SUPREME COURT 2075**, the Hon’ble Supreme Court has held as under:-

“17. xxx xxx xxx xxx xxx. It is well settled that the object of the introduction of Sub- section (3) in Section 397 was to prevent a second revision so as to avoid frivolous litigation, but, at the same time, the doors to the High Court to a litigant who had lost before the Sessions Judge was not completely closed and in special cases the bar under Section 397(3) could be lifted. In other words, the power of the High Court to entertain a petition under Section 482, was not subject to the prohibition under Sub-section (3) of Section 397 of the Code, and was capable of being invoked in appropriate cases. Mr. Sanyal's contention that there was a complete bar under Section 397(3) of the Code debarring the High Court from entertaining an application under Section 482 thereof does not, therefore, commend itself to us.”



(v) This Court in a judgment titled as ***Talima vs. State of Haryana and others, 2024(1) PLR 496=Neutral Citation 2024:PHHC:035176*** , has held as under:

“9. To consider this aspect, it would be apposite to delve into the nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C., 1973.

9.1. Section 482 of Cr.P.C. of 1973 is, in fact, statutory recognition of the doctrine of inherent jurisdiction of a High Court. This doctrine received statutory recognition, for the first time, when Section 561-A was inserted in Criminal Procedure Code of 1898 by way of Code of Criminal Procedure (Amendment Act) of 1923. By way of introduction of Section 561-A in Cr.P.C., 1898, the legislature recognized the existence of inherent powers in a High Court and provided that nothing in the Code can be deemed to limit inherent powers of a High Court to make such order(s) as would be necessary to give effect to any order under the Code or to prevent abuse of process of any Court or to otherwise secure the ends of justice. The Hon’ble Supreme Court in the judgment of Mohammad Naim (*supra*) has held that this Section gives no new powers to a High Court; it only provides that powers which the High Court already inherently possesses, shall be preserved and a provision has been inserted into statute book lest it be misconstrued that only those powers are possessed by the High Court which are expressly conferred by the Code of Criminal Procedure & that all such inherent powers stand extinguished after the Code come into force. In essence, this provision refers to residuary plenary powers of High Court to do justice. It is notable that such inherent powers, which received statutory recognition at the end of legislature, empowers a High Court to exercise such inherent jurisdiction not only in respect of proceedings before it but also in respect of proceedings in the Subordinate Courts. The legislature, acknowledging the significance and importance of such inherent powers, chose to keep alive the provision of Section 561-A of Cr.P.C., 1898 in the Cr.P.C. currently in vogue i.e. Cr.P.C. of 1973 albeit only by renumbering the provision as Section 482.

9.2. The important aspect that immediately next craves attention is as to what are the “inherent powers of a High Court” recognized under Section 482 of Cr.P.C., 1973. At the outset, it deserves to be noticed that these inherent powers are not defined in the statute. Inherent powers are essentially those powers which ipso facto exist in the Court by virtue of its



existence. The phraseology of inherent powers as defined in the dictionaries is as under:-

- (a) *Black's Law Dictionary* defines 'inherent powers' as "Existing in something as permanent, essential, or characteristic attribute."
- (b) *Webster's New World Law Dictionary* defines it as "A power that must be deemed to exist in order for a particular responsibility to be carried out."
- (c) *Oxford (Advanced Learner's Dictionary)* defines "inherent" as "existing as a natural or permanent feature".

The Hon'ble Supreme Court in case of "Devendrappa" (supra) has relied upon the maxim of "quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae, esse non potest" (when the law gives a person anything it gives him that without which it cannot exist) to hold that the inherent powers of a High Court are all such powers which are necessary to do the right and to undo a wrong in course of administration of justice. The Hon'ble Supreme Court, in this judgment, has further referred to the maxim "ex debito justitiae" to say that such powers are ones given to do real and substantial justice for which purpose alone High Court exists. The Hon'ble Supreme Court in the judgment of Parbatbhai (supra) has held that the powers under Section 482 of Cr.P.C. of 1973 are aimed at preserving the inherent powers of the High Court to prevent an abuse of the process of any Court or to secure the ends of justice.

9.3 A cumulative reading of the above said would show that the inherent powers of a High Court are powers which are incidental replete powers, which if did not exist so, the Court would be obliged to sit still and helplessly see process of law and Courts being abused for the purpose of injustice. These powers of a High Court hence deserve to be construed with the widest possible amplitude. It is trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner should, therefore, have unfettered power to deal with situations which, though not expressly provided for by the law, need to be dealt with to prevent injustice or an abuse of the process of law and Courts.

9.4. Accordingly, it is unequivocal that the inherent powers of a High Court; recognized by way of Section 482 of Cr.P.C. of 1973; are powers which are unbridled, unfettered and plenary in nature. These powers are to



be exercised keeping in view the following salutary purposes viz; (a) to give effect to any order passed under the code (b) to prevent abuse of process of any Court (c) to otherwise secure the ends of justice. It is neither conceivable nor desirable to lay down any exhaustive set of guideline(s) to govern the exercise of this plenary inherent jurisdiction, however alluring this aspect may be. Such exercise of power would definitely be dependent upon the factual matrix of the case which the court is seisin of.”

Analysis (re law)

8. A critical thorough analysis of the provisions of Sections 397(3) & 399(2) of Cr.P.C., 1973 decidedly reflects that a second revision petition by the same person is statutorily prohibited. Consequently, a person cannot be permitted to resort to the remedy of second revision petition when the same is evidently barred by statutory provisions. The more pertinent question that arises is; whether the High Court is denuded of its powers under Section 482 of Cr.P.C., 1973; to entertain such a petition. The Hon’ble Supreme Court has explicitly enunciated in the cases of **Raj Kapoor** (supra), **Krishnaveni** (supra), **Ganesh Narayan Hegde** (supra) and **Shakuntala Devi** (supra) that, *ordinarily*, the High Court ought not to interfere in a petition filed under Section 482 of Cr.P.C., 1973 when such petition actually constitutes a second revision petition, preferred by the same person, in view of specific statutory bar. However, the High Court has *suo moto* powers in terms of Section 401 of Cr.P.C., 1973; inherent plenary powers in terms of Section 482 of Cr.P.C., 1973 as also powers of continuous supervisory jurisdiction under Section 483 of Cr.P.C., 1973. This Court in the case of **Talima** (supra) has considered, in detail, the nature, scope and extent of powers of the High Court under Section 482 of Cr.P.C., 1973 and has held that the High Court has unbridled, unfettered and plenary powers under



Section 482 of Cr.P.C., 1973. *Ergo*; the inexorable conclusion is that where the High Court finds that the case in hand reflects grave miscarriage of justice *or* abuse of process of Court or law *or* that the required statutory procedure has not been complied with *or* there is failure of justice; then it is incumbent upon the High Court to exercise its powers to interfere in such a petition.

8.1 The next issue that craves attention of this Court pertains to the criteria for exercise of powers under Section 482 of Cr.P.C., 1973 by the High Court in a case wherein the petition in question is, in effect, a second revision petition by the same person. Any attempt to formulate exhaustive guidelines shall be but obviously a utopian thought. It is neither conceivable nor desirable to lay-down any straightjacket formula for exercise of such plenary powers. It goes without saying that the High Court ought to exercise such powers under Section 482 of Cr.P.C., 1973 depending upon the facts and circumstances of the case in hand keeping in view the salutary objective(s) sought to be achieved *viz.*, to give effect to any order under the Cr.P.C, 1973 or to prevent abuse of process of any Court/law or otherwise to secure the ends of justice.

9. As a result of above discussion, the following principles emerge:

- I) A second criminal revision petition filed by the same person is barred in view of statutory mandate contained in Section 397(3) and Section 399(2) of Cr.P.C., 1973. Nonetheless, the High Court in its plenary inherent jurisdiction under Section 482 of Cr.P.C., 1973 may entertain such a petition, if the facts/circumstances of the case in hand so warrant.



II) The High Court may entertain such like petition in case there is a grave miscarriage of justice *or* an abuse of process of the Courts *or* an abuse of the process of law *or* non-compliance of statutory procedure *or* there is failure of justice *or* other factors of akin nature. The factors enumerated hereinabove are only illustrative in nature as it is neither pragmatic nor conceivable to lay-down exhaustive guidelines/factors for the exercise of such plenary powers.

Analysis (re-facts of present case)

10. Now this Court reverts to the facts of the case in hand to ratiocinate thereupon.

10.1. The learned Magistrate, while passing the impugned order dated 26.10.2016, has found that an FIR has been registered against one Mahant Jangsher Singh under Section 354-A of IPC and the Police has called the said Mahant for investigation in that case. It is at that time that the petitioner-complainant along with other persons had gone to the Police Station. It has been further found by the said Magistrate that it appears that the petitioner-complainant (along with other person) was trying to interfere in the investigation of the FIR in question. The learned Magistrate has considered the matter from all the relevant aspects while passing the impugned order dated 26.10.2016, relevant whereof reads as under:

“4. Now, the court has to see whether any prima-facie case is made out against the accused persons for summoning them to face trial or not. It is the case of complainant that they went at Police Station, Buria on 08-04-2013 in the night and on 09-04-2013 in the morning, as police called Mahant Jangsher in concerned with the complaint which was filed by one Mukesh against said Mahant. From the perusal of case file, it is evident that FIR has been registered against said Mahant u/s 354-A IPC. Meaning thereby, police had called said Jangsher Singh for investigation in that case. All the accused persons are the police official who were performing



their duty in concerned with the case registered against said Mahant. It is difficult to understand as to why complainant alongwith his all family members and other went to the Police Station, Buria and if they are going there then they are interfering in the working of public servant. The complainant and his family members and other have no right to interfere in the working of police. As discussed above, FIR was pending against said Jangsher Singh then it is the duty of police official to investigate the same by calling him in the Police Station. If any person will interfere in the working of police then police can use force against those persons who wants to interference in their duty. Moreover, after that, FIR was also registered against the complainant and other persons for the offence of interfering in the duty of public servant. It seems that present complaint has been filed by the complainant only as a counter blast of that FIR. From the perusal of MLRs on file, it is clear that injuries are only simple in nature like pain and abrasion. There is no criteria to ascertain injury of pain. Moreover, injury of abrasion can be self inflicted. Even otherwise discussed above, complainant and his other family members and others on reaching P.S.Buria, tried to interfere in the duty of police. As discussed above, police were performing their duty, therefore complainant should have take permission u/s 197 Cr.P.C which was not taken, In these circumstances, it can be said that there is no material on record by virtue of which this court could say that prima-facie case is made out against the accused persons.”

10.2 Aggrieved, the petitioner has challenged the aforesaid order before the Sessions Court, who after considering the rival submissions, came to the conclusion that no illegality or perversity was found in the order passed by the Magistrate whereby summoning of the private respondents (herein) was sought for. It, accordingly, dismissed the same. Further, the order passed by the Sessions Court in revisional jurisdiction is well reasoned order; relevant whereof reads as under:

“9. At the cost of repetition, complainant-revisionist has come up with the allegations that respondents/proposed accused gave beatings to him and other family members when they went to the police station Buria to apprise the police about true state of affairs pertaining to some complaint



moved by one Mukesh Kumar against the Mahant of the temple of the village. It is the version of the complainant that respondents gave fists/knee blow/slaps/danda blows to the injured namely Rekha, Preeti, Rakesh Kumar and in this regard, MLRs Ex.C1 to C3 of Rekha, Preeti and Rakesh Kumar have been brought on record, however a perusal of the said MLRs would reflect that the same reflect only complaint of pain in head and chest and no mark of injury present as reported in MLR Ex.C1 of Rekha and likewise, simple injury i.e. C/o pain in abdomen and no mark of injury is reflected in the MLR Ex.C2 of Preeti and the MLR Ex.C3 pertaining to Rakesh Kumar reflects complaint of pain in head and back and an abrasion on right hand thumb and the same apparently reflect that assertions of complainant do not at all find due corroboration vide medical evidence. Had the accused persons given slap/fists/knee blow/danda blows to the injured persons then injured would certainly have received some distinguishable injuries, which is not the case here. Moreover, as per the own averments of the complainant, one Mahant of the temple in the village was facing some complaint under Section 354-A IPC and therefore, the police was under legal obligation to investigate the matter and even otherwise, no other villager has come forward to lend credence to the allegations of the complainant. Further, it has also come on record that one FIR No.49 dated 09.04.2013 was got registered under Sections 186, 332, 353, 354 IPC at PS Buria against the complaint Ram Kishan and other persons and the possibility of moving of instant complaint as a counter-blast to the said FIR cannot be ruled out. No doubt only prima facie case is to be seen at the time of issuance of process against an accused, however at the same time it is also settled legal proposition that summoning of any person in a criminal case is a matter of serious concern and no person be summoned in a casual manner, without there being some prima facie evidence on record qua the alleged occurrence. Reliance in this regard can be placed on case titled M/s Pepsi Foods Ltd. Vs. Special Judicial Magistrate, (1998) 5 SCC 749.”

10.3 Thus, from the factual matrix of the case in hand, no compelling or accentuating facts have been brought forward that would persuade this Court to hold that there is glaring defect(s) or there is manifest error in the orders passed by the Courts below which has resulted into grave miscarriage

