



CRM-M-2542-2025

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121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2542-2025 (O&M)

Decided on: 17.01.2025

Gurmukh Singh

..... Petitioner

Versus

State of Punjab and another

.....Respondentss

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Kulmanbir Singh Nagra, Advocate, for the petitioner.

Rajesh Bhardwaj, J.CRM-1680-2025

Allowed as prayed for.

Main case

1. Prayer in the present petition is for quashing of summoning order dated 13.02.2024 (Annexure P-1) passed by learned JMIC, Fatehgarh Sahib and order dated 14.11.2024 (Annexure P-2) passed by learned Sessions Court, Fatehgarh Sahib, vide which the petitioner was summoned to face the trial in a complaint under Section 156(3) Cr.P.C.

2. Succinctly, facts of the case are that respondent No.2 i.e. complainant filed a petition under Section 156(3) Cr.P.C. praying for registration of FIR against the petitioner. However, learned trial Court by treating the same as a complaint directed respondent No.2-complainant to lead the preliminary evidence. On recording of the preliminary evidence, the petitioner was summoned to face the trial vide impugned order dated 13.02.2024. Aggrieved by the same, the petitioner assailed the same by way of filing revision petition before learned Revisional Court. However, after hearing both the sides, learned Revisional Court finding no merit in the revision petition filed by the petitioner, dismissed the same by impugned



order dated 14.11.2024. Thus, both the trial Court and Revisional Court have given concurrent finding against the petitioner. Hence, the petitioner has approached this Court by way of filing the present petition.

3. It has been vehemently contended by learned counsel for the petitioner that respondent-complainant filed complaint against the petitioner with *malafide* intention. He submits that the motive shown for the alleged occurrence was stubble burning and allegedly the land was taken on lease by the petitioner from Jaswant Singh for agricultural purpose. He has submitted that the disputed land was not in the name of Jawant Singh, but it was in the name of someone else. He submits that neither the petitioner had taken any land on lease nor he owns any land in the entire *raqba*. He submits that there is no evidence regarding burning of stubble. He further submits that the petitioner was the ex-Sarpanch at the time of occurrence and he was re-elected as Sarpanch of the village and thus, being responsible person of the village, he could not have engaged in stubble burning. He submits that except one single eye-witness who is the nephew of respondent-complainant, there is no evidence produced by respondent-complainant. It is submitted that the complaint was filed as a result of political rivalry between the petitioner and the complainant. He further submits that the offence of theft is not at all made out from the evidence on record and thus, there being no *prima facie* case against the petitioner, the impugned orders are unsustainable in the eyes of law. He has submitted that both the trial Court and Revisional Court have miserably failed in appreciating the law settled that the summoning of any person cannot be in a cavalier manner. He, thus, submits that the impugned orders being



patently illegal, deserve to be set aside.

4. After hearing learned counsel for the petitioner and perusing the record, it is deciphered that respondent-complainant filed a petition under Section 156(3) Cr.P.C. which was treated as a complaint and the respondent-complainant was directed to lead preliminary evidence. The respondent produced seven witnesses i.e. CW-1 to CW-7. On appreciation of the preliminary evidence, learned trial Court found material for summoning under Sections 323 and 379 IPC, however, there being no material qua Sections 325, 295-A, 380 & 188 IPC, summoned the petitioner under Sections 323 and 379 IPC, vide order dated 13.02.2024. Order dated 13.02.2024 was further assailed by way of filing of revision petition before learned Revisional Court. Both the sides were heard and thus, finding no merit, the same was dismissed. As per law settled, at the time of summoning, learned trial Court is to see the material produced and satisfy whether any *prima facie* case is made out for summoning of the accused to face the trial. On shifting of the evidence produced, the learned trial Court found the material only qua Sections 323 and 379 IPC against the petitioner and thus, summoned him.

5. Hon'ble Supreme Court in case of M/s Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. (1998) 5 SCC 749 laid down the golden standard for summoning of a person as an accused in a Court case. Paragraph 28 therein is noteworthy and it reads thus:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. it is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the

criminal law set into motion. 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. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

6. Hon’ble Supreme Court in Aniruddha Khanwalkar vs. Sharmila Das, 2024 AIR Supreme Court 2802, has held that for summoning of an accused at preliminary stage, a *prima facie* case is to be made out on the basis of the allegations in the complaint and the pre-summoning evidence led by the complainant.

7. On the appreciation of the arguments raised and the record on the anvil of law settled by Hon’ble Supreme Court in abovesaid cases, this Court does not find any infirmity in the view taken by by the Courts below and thus, finding no merit in the present petition, the same is hereby dismissed.

8. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.01.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No