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2025 PHHC 121919



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

**CRM-M-15290-2015 (O&M)  
DECIDED ON: 30.07.2025**

**PARVESH BHANDARI**

**.....PETITIONER**

**VERSUS**

**STATE OF PUNJAB AND ORS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Vinod Khunger, Advocate  
for the petitioner.  
Mr. Ranjit Singh Kalra, Advocate  
for respondent no. 2

**SANDEEP MOUDGIL, J (ORAL)**

**1. Prayer:**

The jurisdiction of this Court has been invoked under section 482 Cr.P.C. seeking quashing the order dated 20.01.2014 passed by Addl. Sessions Judge, Ferozepur summoning the petitioner as an accused in FIR no. 188 dated 11.09.2009, registered at PS, City Ferozepur under section 409, IPC .

**2. Brief Facts :**

An FIR No. 188 dated 11.09.2009 was registered at Police Station City, Ferozepur under Section 409 IPC against Baldev Singh and Subhash Chander for misappropriation of wheat stock and other articles for the year 2008-09. After investigation, the challan was filed only against them, and the petitioner Parvesh Bhandari was cited as a witness, as no material was found against him. During the trial, accused Baldev Singh moved an application under Section 190 Cr.P.C. to summon the petitioner as a co-accused, alleging that the stock was under a double lock system jointly with him. The Chief Judicial Magistrate dismissed the

application on 30.05.2011, holding that no evidence existed against the petitioner. However, in revision, the Additional Sessions Judge set aside that order on 20.01.2014 and directed summoning of the petitioner as an accused. Aggrieved thereby, the petitioner has filed the present petition under Section 482 Cr.P.C. seeking quashing of the summoning order.

**3. Contentions :**

**On behalf of the Petitioner**

Learned counsel for the petitioner at the outset submits that the impugned order dated 20.01.2014 passed by Addl Sessions Judge, Ferozepur summoning the petitioner as an accused is wholly without jurisdiction. It is urged that the FIR did not contain any allegation against the petitioner, and after full investigation, the challan was filed only against accused persons Baldev Singh and Subhash Chander, while the petitioner was cited as a witness. Once the police report under Section 173 Cr.P.C. was filed, the only power available to summon an additional accused is under Section 319 Cr.P.C., and that too only if cogent evidence comes on record during trial.

It is further argued that the petitioner's role was only as "double locker", a purely ministerial function, and no evidence of misappropriation is attributed to him. In fact, the accused Baldev Singh having already been convicted under Section 409 IPC for criminal breach of trust and acquitted under Section 120-B IPC rules out the question of conspiracy and there can be no question of joint liability, since Section 409 IPC fastens personal responsibility only upon the person in dominion and control of the property. Thus, the summoning of the petitioner is nothing but an attempt by the convicted accused to shift liability.

It is lastly submitted that the impugned order amounts to an abuse of process of law, since the petitioner was never put to notice, was not named in the challan, and no evidence exists against him. The order therefore deserves to be quashed in exercise of inherent jurisdiction under Section 482 Cr.P.C.

**On behalf of the State/respondent**

Learned State counsel submits that the petitioner was a joint custodian of the stock in question under the “double lock” system, and therefore equally responsible for its safety. His role cannot be termed merely ministerial to absolve liability, and whether he shared criminal intent is a matter of trial. At the stage of summoning, only a *prima facie* case is required. The revisional court rightly exercised its jurisdiction, as material existed on record connecting the petitioner with the offence. Hence, the petition under Section 482 Cr.P.C. deserves dismissal.

**4. Analysis:**

Having heard learned counsel and perused the record, this Court finds that the impugned summoning order proceeds on a premise unsupported by any material disclosing the petitioner’s culpability. The FIR narrates shortages of wheat stock and alleged misappropriation qua accused persons Baldev Singh and Subhash Chander but it does not attribute any role to the petitioner in the act of misappropriation. After investigation, the police filed a report against those two accused only and cited the petitioner as a witness. Moreover, the only circumstance relied upon to rope in the petitioner is that the wheat stock for 2008-2009 was kept under a “double-lock” arrangement and that the petitioner had signed a joint certificate. However, this is insufficient in criminal law to infer participation in the offence.

The Court is mindful of the fact that for an offence under Section 409 IPC to be established, the prosecution must show the following elements, being: (i) entrustment or dominion over property in the capacity of a public servant, and (ii) dishonest misappropriation, conversion, use or disposal in violation of law or contract. Mere performance of a procedural/ministerial function or association with custody, does not establish criminal breach of trust. In the present case, the

material place on record, does not show evidence that petitioner exercised independent dominion over the stock or participated in its dishonest depletion and the “double-lock” notation and a joint certificate are administrative incidents of storage and in absence of any other material, do not satisfy the ingredients of Section 409 since, there is no specific allegation that the petitioner authorised, facilitated, or benefited from the alleged misappropriation as he appears only as a witness to the procedural steps.

It is trite that issuing process against a person is a serious matter and the Court must apply its mind to whether the basic ingredients of the alleged offence are disclosed against the proposed accused and a mechanical summoning cannot be sustained. Guidance may be derived from the Supreme Court judgment in “*Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749*” wherein it was held as below:

*26. 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 that would 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 scrutinise 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.*

In view of the facts and circumstances of the case at hand, this court is of the considered opinion that the impugned order does not demonstrate consideration of these controlling principles.

It also bears significance to discuss that the accused Baldev Singh stands convicted for the substantive offence under Section 409 IPC while having been acquitted of Section 120-B IPC. With conspiracy judicially negated, any attempt to extend culpability to the petitioner must rest on independent material showing his own entrustment coupled with dishonest misappropriation and as no such material is pointed out, the attempt to array the petitioner at the behest of a convicted accused reads as an endeavor to shift blame on the petitioner rather than a prosecution founded on incriminatory evidence.

In the above circumstances, continuing the process against the petitioner would be an abuse of the process of Court and the parameters for intervention under Section 482 Cr.P.C., as articulated in “*State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*” are squarely attracted as even if the uncontroverted allegations are taken at their face value, they do not disclose the essential ingredients of Section 409 IPC against the petitioner.

**5. Relief:**

Accordingly, The present petition is hereby allowed and the impugned summoning order passed by the Addl. Sessions Judge, Ferozepur dated 20.01.2014 is unsustainable in law and is thereby quashed. Pending applications, if any, stand disposed of.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**30.07.2025**  
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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |