

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4073-2018 (O&M)

Date of Decision: 07.05.2025

Gurpreet Singh @ Sonu & Ors.

... Petitioners

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Sidhu, Advocate for the petitioners

Mr. Rajiv Verma, DAG Punjab

Mr. JS Dhaliwal, Advocate for respondent No.2

Sandeep Moudgil, J. (Oral)

This order shall dispose of CRM-M-4073 & 8190-2018 being inter-connected. CRM-M-4073-2018 is treated as the lead case.

This is a petition under Section 482 Cr.P.C. for quashing of the summoning order dated 24.10.2017 passed by JMIC, Moga (Annexure P3) in which the application under Section 319 CrPC moved by the prosecution is allowed and the petitioners have been summoned in FIR No.50 dated 03.08.2011 under Sections 448/511/457/380/427/34 IPC, registered at Kot Ise Khan, District Moga.

Learned counsel for the petitioner contends that in the FIR, neither the name of the petitioners were added nor any role was attributed to them and they were only named by the complainant in her statement before the trial court. He submits that the complainant had already filed a criminal complaint No.35 dated dated 24.07.2015 titled as *Lakhwinder Kaur vs. Kulwinder Singh @ Kulla & Ors.* regarding the same allegation arising out

of the same incident in relation to which the above-said FIR was registered and in the said complaint case, the petitioners have already been acquitted by the JMIC, Moga vide order dated 24.10.2017 (Annexure P5) wherein the complainant herself appeared as CW1 in the complaint and she categorically deposed that the local police got her signatures forcefully on the blank papers and the FIR is a forged and fabricated document. It is averred that on the same day, the same court of JMIC, Moga, passed an order in the FIR passing the impugned order dated 24.10.2017 vide which the petitioners have been ordered to be summoned under Section 319 CrPC.

On the other hand, learned State counsel submits that the parties are inter-related and family members and they have filed criminal complaint/FIR regarding stealing of articles from the shop and during enquiry into the complaint, the petitioners were found to be innocent in the present case and since the order dated 24.10.2017 has been passed by the competent Court of law therefore, the same cannot be commented upon.

In the reply dated 15.03.2019 filed by the respondent No.2, a contradictory stand has been taken on behalf of respondent No.2 and it has been averred that the petitioners have been rightly summoned by the trial court and therefore, their involvement or innocence would be decided by the trial court after prosecution will lead their evidence.

Having heard learned counsel for the parties, and on perusal of the impugned order, it would reveal that the summoning is based on the statement of PW-2 complainant-Lakhwinder Kaur, recorded in the Court. The order dated 24.10.2017 passed by the same Presiding Officer in criminal complainant RT No.35 dated 24.07.2015 filed by the same complainant

Lakhwinder Kaur in which the trial Court, on appreciation of the statement of the same witness-Lakhwinder Kaur who appeared as CW-1, had discharged all the accused persons including the persons who were summoned under Section 319 Cr.P.C. and complaint was dismissed.

The fact of the matter is that vide order dated 24.10.2017, the complaint filed by Lakhwinder Kaur was dismissed by the JMIC, Moga observing that there are number of improvements in the complaint filed by the complainant as there is no allegation of tearing off clothes etc. in the complaint written from the Central Jail, Ferozepur and as such the allegations raised in the complaint was found to be without any evidence.

Evidently, the same Judicial Office who dismissed the above-said complaint, may be due to non-furnishing of appropriate assistance before the trial court, passed the impugned order dated 24.10.2017 summoning the petitioners without bringing it into the notice of the Court by the parties that in the other complaint filed by the complainant leveling similar allegation, the version of the complainant has been found to be not credible and as such, the complaint itself has been dismissed. In such circumstances, where after proper evidence and trial proceedings in relation to similar set of allegations leveled in the complaint, the petitioners have been acquitted, the trial court cannot be held to be justified in summoning the petitioners. The appropriate recourse would have been to club the complaint and the FIR and pass order on the same leaving any scope of perplexity and passing of contradictory orders.

In view of the above discussion, the present petition is allowed and order dated 24.10.2017 passed by JMIC, Moga (Annexure P3)

summoning the petitioners under Section 319 CrPC in FIR No.50 dated 03.08.2011 under Sections 448/511/457/380/427/34 IPC, registered at Kot Ise Khan, District Moga is hereby set aside.

07.05.2025

V.Vishal

(Sandeep Moudgil)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No