IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CRM-M-22508-2019 (O&M)
DECIDED ON : 14.07.2025

RAMNEEK PRABHAKAR

…..PETITIONERS

VERSUS

NEELU JAIN

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S.Dadwal, Advocate for the petitioners.
Mr. Dinesh Arora, Advocate for the respondent.

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SANDEEP MOUDGIL, J

1. Jurisdiction of this court has been invoked under section 482 of the Code of Criminal Procedure with the prayer to set aside the order dated 02.04.2019 passed by Dr. Virender Parshad, Additional Sessions Judge, Faridabad (Annexure P-8), whereby well reasoned order which is within the four corners of law dated 04.06.2016 passed by the Judicial Magistrate Ist Class, Faridabad (Annexure P-6) has been set aside is apparently illegal and is contrary to record the and therefore, while allowing the present petition, the said order need to be restored keeping in view the peculiar facts and circumstances which are being set out in the present petition.

2. **Facts**

The factual matrix of the case, as emerged from the record, is that the respondent/complainant, Neelu Jain, filed a complaint before the learned trial Court alleging that the petitioner was engaged in the business of running chit fund committees and had induced her husband to become a member in two such committees operated by him. The complainant claimed that she had invested substantial amounts in both committees through the petitioner. It is further alleged that after deducting his own profits, the petitioner had agreed to make a payment of ₹3.5 lakhs to the complainant, which he failed to pay despite repeated demands. The complainant appeared before the trial Court as CW-1 and specifically deposed that she had handed over the money to the petitioner for the purpose of investment in the chit fund committees. Her husband, Golden Jain, was examined as CW-2 and fully corroborated her version. To support her case, the complainant produced a yellow envelope marked as Ex. C3, which contains a handwritten note by the petitioner acknowledging his liability to pay ₹3.5 lakhs. In addition, the complainant placed on record a series of SMS and WhatsApp messages (Ex. C4 to Ex. C15), which clearly reflect ongoing financial transactions and communications between the parties. In one such note, the petitioner admitted that the matter regarding the dues was under consideration, and further discussion was scheduled for 22.06.2015. The complainant also relied on a document marked as Ex. C17, which forms part of a police inquiry conducted into the dispute. In this report, it was recorded that both parties were called for investigation, and the dispute was found to be one relating to financial transactions. Although the report was filed against the complainant, it was clearly noted therein that the petitioner was well acquainted with the complainant's husband, thereby reinforcing the connection between the parties and the underlying transaction.

3. Contention

On behalf of the petitioner

Learned Counsel for the Petitioner argued that the complaint was entirely false and motivated, filed only to harass the petitioner. It was submitted that the petitioner had no liability towards the complainant and that the learned trial Court erred in summoning him without application of judicial mind. It was also contended that the police report, having gone against the complainant, should have been given due weight by the trial Court.

On behalf of the respondent

On the other hand, learned Counsel for the Respondent/Complainant argued that sufficient material was placed on record to demonstrate a prima facie case against the petitioner. It was submitted that the trial Court had rightly exercised its jurisdiction by issuing the summoning order based on the complainant's sworn testimony, corroborated by her husband and supported by documentary evidence such as the handwritten admission, electronic messages, and police record.

4. Analysis

After careful consideration of the record and submissions made by both sides, this Court finds no infirmity in the impugned order dated 02.4.2019 Annexure P-8 passed by the Revisional court below.

The respondent-complainant has placed on record credible material which cannot be brushed aside. The existence of a handwritten note by the petitioner acknowledging his liability, corroborated by multiple electronic messages and supported by independent oral testimony, clearly indicates that a prima facie case is made out. The nature of the transactions, and the fact that the petitioner had knowledge that his actions were likely to cause wrongful loss to the complainant while securing wrongful gain for himself, attract the ingredients of the offences alleged.

This Court has consistently emphasized that the act of summoning an accused in a criminal proceeding is a matter of considerable significance and should not be undertaken in a casual or mechanical manner. Summoning a person to face criminal charges entails serious consequences and must therefore be based on a judicious application of mind.

It has been categorically held that any order passed by a Magistrate directing the issuance of summons must demonstrate that due consideration has been given to the factual matrix of the case as well as the relevant legal provisions. The Magistrate is duty-bound to assess whether the allegations made in the complaint, along with the supporting material—both oral and documentary are sufficient, if taken at face value, to constitute the commission of an offence warranting the accused's prosecution.

Moreover, at the stage of recording preliminary evidence under Section 200 CrPC, the Magistrate is not expected to act as a mere passive observer. Rather, he must actively evaluate whether the evidence presented justifies the initiation of criminal proceedings. The exercise of summoning power is a judicial function, and the Magistrate must form an independent and reasoned opinion based on the facts presented.

In essence, the summoning order should not be a mere formality but must reflect a conscious application of mind to the nature of the allegations and the sufficiency of material available on record. Failure to do so would render the process susceptible to misuse and undermine the safeguards built into the criminal justice system.

The Supreme Court in a recent judgment passed in '**Inox Air Products Limited Inox Air vs The State Of Andhra Pradesh'** decided on 30 January, 2025 has observed as under :-

> *'This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held :-*
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> *'that 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. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.*
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> *36. The said law would be consistently following by this Court in a catena of judgments including in the cases of Sunil Bharti Mittal v. Central Bureau of Investigation7, Mehmood Ul Rehman v. Khazir Mohammad Tunda and Others8* and *Krishna Lal Chawla and Others v. State of Uttar Pradesh and Another9.*
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> *37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of Lalankumar Singh (supra), has observed thus:*
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> > *7 (2015) 4 SCC 609 : 2015 INSC 18 8 (2015) 12 SCC 420 : 2015 INSC 983 9 (2021) 5 SCC 435 : 2021 INSC 160*
> >
> > *"38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court*

> *in the case of Sunil Bharti Mittal v. Central Bureau of Investigation9, which reads thus:*
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> *"51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.*
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> *52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.'*
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> *53. However, the words "sufficient ground for proceeding" appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."*

In light of the settled position of law and upon consideration of the discussions hereinabove, this Court is of the opinion that, at the stage of summoning, a detailed scrutiny of the evidence or an assessment of the truthfulness of each document is not warranted. What is required is the existence of a *prima facie* case and the presence of sufficient grounds to proceed. In the present matter, such grounds have been sufficiently established, as the respondent has placed on record certain documents, namely Exhibits C3 to C17, which were *prima facie* considered by the trial Court. It was only after such preliminary assessment that the Court found it appropriate to proceed with further inquiry into the complaint.

5. Conclusion:

In view of the above discussion, the impugned order dated 02.04.2019 passed by Additional Sessions Judge, Faridabad (Annexure P-8), does not suffer from any illegality, irregularity, or perversity and this Court finds no ground for interference in the revisionary jurisdiction exercised by the Court below and the same is upheld.

Accordingly, the present petition is dismissed.

Pending miscellaneous, if any(s) also stands disposed of accordingly.

(SANDEEP MOUDGIL)
JUDGE

14.07.2025
anuradha

Whether speaking/reasoned : Yes/No
Whether reportable :Yes/No