



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45304-2024

Date of decision: 27th November, 2025

Khurshidan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. J.S. Hooda, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of Code of Criminal Procedure seeking quashing of order dated 25.07.2024 passed by the Court of learned Additional Sessions Judge, Palwal in revision petition bearing CRR No. 30 of 2019 titled as ***Khurshidan vs. State of Haryana and others*** whereby order dated 08.01.2019 passed by the Court of Sub Divisional Judicial Magistrate, Hathin in criminal complaint No. COMI-16-2018 titled as ***Khurshidan vs. Saikul and others***, thereby dismissing the complaint had been affirmed and the revision petition was dismissed.

2. Brief facts, relevant for the purpose of disposal of this petition are that the aforementioned FIR was filed by the petitioner on the allegations that on 16.10.2016, the respondents No. 2 to 21 named as proposed accused therein had opened an assault upon her son and other family members and had fired shots with firearms, looted ornaments and money from her house



and had also looted the shop of Hanif son of Nawab. They had also tried to outrage the modesty of female members of the complainant party. On the complaint of the complainant, initially an FIR No. 375 was registered on 21.10.2016 but the same was subsequently cancelled rather an FIR No. 370 dated 17.10.2016 was registered against the son and nephew of the complainant. After cancellation of the FIR by the order of the Court, the protest petition as filed by the complainant was treated as complaint.

3. In preliminary evidence, the petitioner examined 07 witnesses besides placing reliance upon certain documents. After going through the evidence so produced and considering the contentions raised by the petitioner's side, learned Judicial Magistrate, dismissed the complaint vide order dated 08.01.2019 by observing that no case for summoning the respondents as accused had been made out.

4. Feeling aggrieved, the petitioner-complainant filed the aforementioned revision petition which too has been dismissed by the Court of learned Additional Sessions Judge, Palwal.

5. It is argued by learned counsel for the petitioner that the impugned orders as passed by the learned Revisional Court as well as by the learned Judicial Magistrate are not sustainable in the eyes of law as while passing the same, the learned courts did not apply their judicious mind. The fact that there was *prima facie* evidence on record to prove that the respondents No. 2 to 21 had formed membership of an unlawful assembly and in prosecution of common object thereof, had voluntarily caused simple as well as grievous injuries to the members of the petitioner side by criminally trespassing into their properties and had criminally intimidated



them and also used firearm, had not been taken into consideration. It is further argued that the evidence produced on record had not been properly considered and cryptic and non-speaking orders had been passed. With these broad submissions, it is urged that the impugned orders are liable to be set aside, the petition deserves to be accepted and further that process is liable to be issued against the respondent Nos.2 to 21 for commission of the aforementioned offences.

6. Learned State counsel has not raised any argument qua the merits of the case by submitting that the impugned orders had been passed in a private complaint case.

7. This Court has heard learned counsel for the parties at considerable length.

8. As per Section 204 of the Code, if in the opinion of the Magistrate taking cognizance of an offence, there are sufficient grounds for proceeding, he shall issue summons for procuring the attendance of the accused in a summons case or in a warrant case. The sine qua non for exercising the power under Section 204 of Cr.P.C. to issue process, is the subjective satisfaction regarding the existence of sufficient ground for proceeding. In '**Mahmoodul Rehman and others Vs. Khazir Mohammad Tunda and others, (2015) 12 SCC 420**', the Hon'ble Supreme Court held thus:-

“22.....The satisfaction on the ground for proceeding would mean that the facts alleged in the complaint would constitute an offence, and when considered along with the statements recorded, would, prima facie, make the accused answerable



before the court. No doubt, no formal order or a speaking order is required to be passed at that stage. The Code of Criminal Procedure requires speaking order to be passed under Section 203 of CrPC when the complaint is dismissed and that too the reasons need to be stated only briefly. In other words, the Magistrate is not to act as a post office in taking cognizance of each and every complaint filed before him and issue process as a matter of course. There must be sufficient indication in the order passed by the Magistrate that he is satisfied that the allegations in the complaint constitute an offence and when considered along with the statements recorded and the result of inquiry or report of investigation under Section 202 of Cr.P.C., if any, the accused is answerable before the criminal court, there is ground for proceeding against the accused under Section 204 of CrPC, by issuing process for appearance. Application of mind is best demonstrated by disclosure of mind on the satisfaction. If there is no such indication in a case where the Magistrate proceeds under Sections 190/204 of CrPC, the High Court under Section 482 of CrPC is bound to invoke its inherent power in order to prevent abuse of the power of the criminal court. To be called to appear before criminal court as an accused is serious matter affecting one's dignity, self respect and image in society. Hence, the process of criminal court shall not be made a weapon of harassment."

9. In ***Sunil Bharti Mittal Vs. CBI (2015) 4 SCC***, the Hon'ble



Supreme Court interpreted the expression “sufficient ground for proceeding” and held that there should be sufficient incriminating material against the accused concerned before proceeding under Section 204 of Cr.P.C. It was observed as follows:-

“the words ‘sufficient ground for proceeding’ appearing in Section 204 are of immense importance. These words 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 not be bad in law, if the reason given turns out to be ex-facie incorrect.”

10. In this context, reference can be made to ‘**Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalzi and others (1976) 3 SCC 736**’ wherein the Hon’ble Supreme Court laid down certain conditions whereunder a complaint can be quashed invoking the power under Section 482 of the Code, which are as follows:-

(1) Where the allegations made in the complaint or the statements of the witnesses recorded in support of the same, taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;



(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.

11. The Court of Additional Sessions Judge while exercising its revisional jurisdiction and while passing the order dated 25.07.2024 is shown to have discussed the evidence produced on record by the complainant in detail and observed that no case for issuance of process against the respondent Nos.2 to 21 had been made out.

12. On a perusal of the material placed on record, it emerges that the petitioner had sought summoning of the respondents Nos. 2 to 21 as accused for commission of offences as punishable under Sections 148, 149, 323, 307, 452 and 506 of IPC as well as Section 25 of Arms Act. As already mentioned, an FIR was registered but after conducting investigation, a cancellation report was prepared to the effect that the offences as alleged were not proved to have been committed. The petitioner did not examine witnesses Sher Khan, Shamsher, his wife and Hanif to prove the allegations that any offences of snatching/robbery/dacoity had been committed by the



private respondents. No evidence had been produced on record with regard to sustaining any injuries by Amir and Shakir who were other injured in the matter. Though two injuries were stated to have been sustained by the complainant herself and as per the testimony of PW-5 Dr. Jitendra Bhatija, one of the same was firearm injury but the learned Jurisdictional Magistrate and the learned revisional Court observed that the pallet injury sustained by the petitioner was received out of the gunshot fired by her own son Amir. The learned Jurisdictional Magistrate as well as the Revisional Court passed the impugned orders after making a detailed discussion. On a perusal of these orders, this Court is of the considered opinion that the discretion was exercised by the Magistrate in a proper manner and it was rightly held that no case for issuance of process was made out as against the private respondents. The learned Revisional Court had also discussed the evidence produced on record by passing a detailed order and had come to the conclusion that the order passed by the learned trial Magistrate did not call for any inference. In view of the discussion as made, this Court is of the considered opinion that no ground for interfering with the impugned orders as passed by the learned Revisional Court as well as the learned Jurisdictional Magistrate is made out and the petition is devoid of any merits. The same is accordingly dismissed.

13. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

27th November, 2025

Parveen Sharma

1. Whether speaking/ reasoned

: *Yes / No*

2. Whether reportable

: *Yes / No*