



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-10071-2022 (O&M)

Gurdeep Singh and others ...Petitioners

Versus

State of Punjab and another ...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	14.01.2026
2	The date when the judgment is pronounced	16.01.2026
3	The date when the judgment is uploaded on the website	16.01.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. J. K. Singla, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

Mr. Siddharth Gupta, Advocate and
Mr. Jaswinder Arora, Advocate
for respondent No. 2.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*) seeking quashing of Criminal Complaint No. 71 of 2018, titled as ***Jasvir Singh vs. Gurdeep Singh and others***, as well as for quashing of order dated 07.12.2021, passed by the Court of learned Judicial Magistrate First Class, Phul in the aforementioned complaint, thereby summoning the petitioners as accused to face trial for

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commission of offences punishable under Sections 323, 325, 427 and 506 read with Section 34 of IPC.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned complaint has been filed by respondent No. 2/complainant (*who has since died and is represented by his legal representatives*) on the allegations that on 05.06.2017, he along with Kala Singh and Kaka Singh, residents of village Siryewala, was going on a tractor towards the fields at Kukewala area for cultivating the same, when the petitioners reached there and started an altercation with Kala Singh. In the meanwhile, petitioners No. 2 and 3 also reached there. Petitioner No. 1 had a scuffle with Kala Singh, when the complainant along with Kaka Singh tried to pacify them, they opened an attack upon him and caused injuries to him and damaged his tractor. He was taken to the hospital and was medically examined. He suffered fracture on his upper teeth. He reported the matter to the police. A DDR was entered but no action was taken. Rather, on the complaint of the accused persons, a DDR and then an FIR was registered. Respondent No. 2/complainant, therefore, prayed for taking penal action in the matter.

3. After filing of the complaint, the learned trial Court proceeded to record the preliminary evidence and examined seven witnesses and then vide order dated 07.12.2021, the petitioners were ordered to be summoned to face trial for commission of aforementioned offences.

4. It is argued by learned counsel for the petitioners that the complaint filed by respondent No. 2 as well as the impugned order, passed by the learned trial Court, is not sustainable in the eyes of law and is liable to be

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set aside as while filing the complaint, respondent No. 2 concealed the fact that an FIR bearing No. 89 had already been registered against him on 23.06.2017. He also concealed the fact that no offence under Section 325 of IPC was made out as per the opinion given by the doctor at the time of conducting inquiry in DDR No. 19 dated 08.06.2017 recorded on the statement of respondent No. 2/complainant. It is further argued that there was no evidence on record to prove that respondent No. 2 had sustained any grievous injury and as such no case for summoning the petitioners for offence punishable under Section 325 of IPC was made out. Excluding that offence, all the other offences, for which they have been summoned, are non-cognizable and, hence, the bar under Section 468 of the Code was operative and the learned trial Court was barred to take cognizance of the matter since the complaint had been filed after expiry of a period of one year from the date of occurrence.

5. It is further argued by learned counsel for the petitioners that neither from the allegations in the complaint nor on the basis of the evidence produced on record, any case for commission of offences punishable under Sections 427 and 506 of IPC was made out and, therefore, the petitioners could not be summoned under these provisions as well. With these broad submissions, it is urged that the petition deserves to be allowed, the impugned complaint and the impugned summoning order are liable to be quashed along with all the subsequent proceedings having emanated therefrom.

6. Respondent No. 1-State is not a contesting party.

7. Learned counsel for respondent No.2 has argued that there is no illegality or infirmity in the impugned summoning order, which was passed by the learned trial Court after considering the preliminary evidenced produced on

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record by the witnesses. The plea regarding concealment of FIR No. 89 dated 23.06.2017 is misconceived. The existence of a cross-case does not invalidate the complaint. The *inter se* merits of rival versions are matters for trial and cannot form the basis for quashing proceedings at this stage. Offence under Section 325 of IPC was very much attracted against the petitioners. The allegations constituting offences under Sections 427 and 506 IPC have been specifically pleaded and supported by preliminary evidence. In the absence of any patent illegality, perversity or abuse of process, no case for interference under Section 482 of the Code is made out. Therefore, it is urged that the petition is liable to be dismissed.

8. This Court has heard the rival submissions.

9. It is well settled proposition of law that at the stage of summoning the accused on the basis of a private complaint, all that is required is a satisfaction by the Magistrate that there is sufficient ground to proceed against the accused in the light of the record made available and the evidence adduced by the complainant. At that stage, the Magistrate had to find out whether a *prima facie* case had been made out against the accused or not. The Magistrate is not required to meticulously appreciate the evidence at the stage of Sections 203/204 of the Code and all that the Magistrate has to do is to see whether on a cursory perusal of the complaint and the evidence recorded during preliminary inquiry under Sections 200 or 202 of the Code, there is *prima facie* evidence in support of the charge levelled against the accused. The Magistrate has to see whether or not, there is sufficient ground for proceeding against the accused and in that process, the Court is not required to weigh the evidence meticulously. The sustainability of exercise of such power, is to be considered

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in view of the legal and factual position.

10. 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.

11. 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.....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 CrPC, 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.....To be called to appear before criminal court as an accused is serious matter

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affecting one's dignity, self respect and image in society. Hence, the process of criminal court shall not be made a weapon of harassment."

12. 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."

13. Reference can also be made to ***Jagdish Ram vs. State of Rajasthan and another, (2004) 4 SCC 432***, wherein it was observed by Hon'ble Supreme Court that taking of cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

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14. In the instant case, a perusal of record reveals that respondent No.2/complainant has examined as many as seven witnesses while leading preliminary evidence. He himself appeared as CW-1 and is shown to have deposed in support of the allegations levelled in the complaint. His version is shown to have been supported by CW-3 Joginder Singh. Respondent No. 2 has also placed on record copies of the statements of CW-4 Dr. Rajiv Garg, Medical Officer, CHC, Bhagta Bhaika and CW-5 Dr. Pradeep Singh, Medical Officer (Dental), CHC, Bhagra Bhaika, as recorded during the course of preliminary evidence. CW-4 is shown to have stated that while conducting medical examination of respondent No. 2, he had found loose second incisor on right side and there was bleeding. CW-5 is shown to have stated that the enamel edge with respect to 11-12 incisor of the complainant had been chipped off and there was fracture. He opined that the possibility of enamel edge fracture with respect to 11-12 incisors, due to alleged impact, could not be ruled out. The testimonies of these witnesses can be stated to be prima facie sufficient to prove that respondent No. 2/complainant had sustained grievous injury in the form of fracture on enamel edge of his two teeth. Hence, in view of the above, it cannot be stated that no prima facie case for commission of offence punishable under Section 325 of IPC had been made out and once it is so observed, then the bar under Section 468 of the Code was obviously not attracted as the offence under Section 325 of IPC is punishable with imprisonment for a period of more than seven years.

15. So far as offences under Sections 323 and 427 of the IPC are concerned, a perusal of the preliminary evidence produced by the complainant, it cannot be stated that these offences were not made out. As observed earlier,

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at the stage of summoning, it is merely to be seen whether a prima facie case is made out or not. The submissions which have been raised by learned counsel for the petitioners call for determination on questions of fact which may be adequately adjudicated upon only by the learned trial Court and even the submissions made on the point of law also can be more appropriately gone into only by the trial Court.

16. In view of the discussion made above, this Court does not find it to be a case which could be determined or gone into a petition under Section 482 of the Code. Finding no substantial illegality, perversity or any other error in the order passed by the learned trial Court, it is held that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

16.01.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No