

Reserved on: 18.05.2026.
Date of Pronouncement:08.06.2026.
Uploaded on:10.06.2026

1. This order shall dispose of above-said two petitions i.e. CRM-M-30487-2016 titled as **“Karanjit Singh and another Vs. State of Punjab and another”** and CRM-M-43484-2016 titled as **“Roman Singh @ Romi and**



another Vs. State of Punjab and another", whereby, the petitioners have prayed for quashing of the impugned complaint No.06 dated 09.03.2015 (Annexure P1/A) and the summoning order dated 23.02.2016 (Annexure P-1), passed by the Court of Judicial Magistrate 1st Class, Moga, whereby the petitioners have been ordered to be summoned to face trial for commission of the offence punishable under Section 120-B and Sections 323, 324 and 506 read with Section 120-B of IPC and all consequential proceedings are set aside qua the petitioners.

2. During the pendency of these petitions, Harwinder Kaur, petitioner No.2 in CRM-M-30487-2016 had died and learned counsel for the petitioners does not press the petition qua her.

3. Ordered accordingly.

4. Learned counsel for the petitioners contends that the petitioners in both the petitions are permanent residents of England and the complainant has filed a complaint No.06 dated 09.03.2015 in question only with a view to victimize and harass them. The factual backdrop of the case is that on 19.12.2011, respondent No.2/complainant had made a deadly attack on the petitioners and caused serious injuries to them. Consequently, one FIR No.83 dated 20.12.2011 under Sections 341, 325, 149, 120-B of IPC was ordered to be registered against the complainant and his other accomplices at Police Station Tarsika, District Amritsar. The challan was ultimately presented by the police and the complainant was facing prosecution in the said case. When respondent No.2/complainant apprehended that he might be convicted in the trial arising out of FIR No.83 of 2011, he allegedly concocted a false story that the petitioners had attacked him and got one FIR No.160 dated 24.10.2014



registered under Sections 307, 148, 149, 120-B and 506 IPC and Sections 25/27/54 of the Arms Act at Police Station Kot Ise Khan, District Moga (Annexure P-4/T) against the petitioners. However, the police did not find any substance in the allegations levelled by the complainant. Despite this, the police, in collusion with the complainant, allegedly refrained from filing the closure report, with the sole intention of harassing the petitioners. However, it was not presented to the Court under the influence of respondent No.2. Ultimately, the petitioners filed CRM-M-4440-2016 before this Court and the police also filed a cancellation report on 16.04.2016 (Annexure P-7/T) before the Area Magistrate.

5. Learned counsel for the petitioners further submit that the respondent No.2/complainant even threatened to kill the petitioners several times and the police did not take any action against him. Ultimately, with a view to pressurize the petitioners to enter into a compromise in the trial arising out of FIR No.83 of 2011, respondent No.2/complainant filed the present complaint against the petitioners in the Court of Judicial Magistrate 1st Class, Moga.

6. During the course of trial, respondent No.2/complainant appeared as CW2 and examined Dr. Sanjay Dogra, Medical Officer, Civil Hospital, Moga as CW-3, whereas, Kulwant Singh was examined as CW-4 and Dr. Chamandeep Singh Bains, Medical Officer, Civil Hospital, Moga was examined as CW-5. Ultimately, vide the impugned summoning order dated 23.02.2016 (Annexure P-1), the trial Court ordered the summoning of the petitioners. Challenging the complaint and the summoning order, the petitioners have filed two separate petitions before this Court.



7. Learned counsel for the petitioners further submit that from the perusal of the summoning order, it is clear that the Magistrate was already aware of the fact that an FIR stands registered in respect of the same incident. Despite that, without complying with the provisions of Section 210 Cr.P.C., the trial Court is proceeding with the present trial.

8. On the other hand, learned State counsel as well as learned counsel appearing on behalf of respondent No.2/complainant have opposed the submissions made by the petitioners on the ground that no serious prejudice has been caused to the petitioners in the present case and the impugned summoning order is based on correct appreciation of preliminary evidence and the petitions deserve to be dismissed by this Court.

9. I have heard learned counsel for the parties and perused the record carefully.

10. The statute has provided the manner in which complaint case and FIR in respect of the same offence are to be dealt with and Section 210 of the Cr.P.C reads as under :-

“210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.-(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken



by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.”

11. A perusal of the said Section makes it mandatory for the Magistrate to stay the proceedings of the enquiry or trial and call for a report on the matter from the police officer conducting the investigation in relation to the offence which is the subject matter of the inquiry or trial held by him.

12. Hon'ble the Supreme Court in the case of **Dilawar Singh vs. State of Delhi reported as (2008) 3 SCC (Criminal) 330**, held in paras 13 and 14 as under :-

“13. The principle has been statutorily recognised in Section 210 of the Cr.PC which enjoins upon the Magistrate, when it is made to appear before him either during the inquiry or the trial of a complaint, that a complaint before the police is pending investigation in the same matter, he is to stop the proceeding in the complaint case and is to call for a report from the police. After the report is received from the police, he is to take up the matter together and if cognizance has been taken on the police report, he is to try the complaint case along with the GR case as if both the cases are instituted upon police report. The aim of the provision is to safeguard the interest of the accused from unnecessary harassment.

14. The provisions of Section 210 CrPC are mandatory in nature. It may be true that noncompliance of the provisions of Section 210



CrPC, is not ipso facto fatal to the prosecution because of the provision of Section 465 CrPC, unless error, omission or irregularity has also caused the failure of justice and in determining the fact whether there is a failure of justice the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings. But even applying the very same principles it is seen that in fact the appellant was in fact prejudiced because of the non- production of the records from the police.”

13. Similar view has been taken by this Court in **“Jasbir Kaur and another vs Tirath Kaur”, 2014(2) Law Herald 1788.**

14. In the present case also, it is apparent that one FIR No.160 dated 24.10.2014 under Sections 307, 148, 149, 120-B and 506 IPC and Sections 25/27/54 of the Arms Act at Police Station Kot Ise Khan, District Moga (Annexure P-4/T) was got registered by respondent No.2/complainant with regard to the same occurrence. Even in the impugned complaint No.6 dated 09.03.2015 (Annexure P1/A), it has been specifically mentioned that on the basis of the statement made by the complainant, FIR No.160 dated 24.10.2014 was registered against the petitioners. However, the police had not taken any action in the present case. However, from the perusal of the impugned summoning order dated 23.02.2016 (Annexure P-1), it is evident that the Judicial Magistrate 1st Class, Moga had passed the summoning order by considering the preliminary evidence only and there is no reference of any report from the police. From a bare perusal of the summoning order, it is apparent that the trial Court had not called for any report from the police. Thus,



the trial Court had passed the summoning order, without adhering to the mandatory provisions of Section 210 Cr.P.C.

15. In view of the above, both the petitions are partly allowed and the impugned summoning order dated 23.02.2016 (Annexure P-1) in CRM-M-30487-2016 and CRM-M-43484-2016 (Annexure P-10) and all consequential proceedings after the said order are set aside and the matter is remanded back to the trial Court to proceed further, after adhering to the provision of Section 210 Cr.P.C., 1973 in the light of **Dilawar Singh's case (Supra)**.

16. Disposed of.

17. All pending applications, if any, stands also disposed of.

(N.S.SHEKHAWAT)
JUDGE

08.06.2026

hemlata

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