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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.136

CRM-M-39259-2016 (O&M)

Date of Decision: 17.03.2026

BABITA SHARMA AND ORS**...Petitioners****Versus****SURESH KUMAR****....Respondent****CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU**

Present:- Mr. S.K, Aggarwal, Advocate and
Mr. AVS Parmar, Advocate
for the petitioner.
(Appeared through video conferencing).

Mr. Pawan Kumar, Advocate for
Mr. Sourabh Arora, Advocate
for the respondent.

MANDEEP PANNU, J. (Oral)

1. Petition under Section 482 of the Code of Criminal Procedure for quashing of order dated 03.09.2016 (Annexure P-1) passed by the learned Additional Sessions Judge, Rohtak in Criminal Revision No. 12 of 2016, whereby the criminal revision preferred by the petitioners was dismissed, as well as order dated 08.12.2015 (Annexure P-2) passed by the learned Additional Chief Judicial Magistrate, Rohtak, whereby the petitioners were summoned under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 506 IPC read with Section 34 IPC.

2. Learned counsel for the petitioners has contended that the impugned orders have been passed in a mechanical manner without due application of mind. It is submitted that the summoning order dated



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08.12.2015 is a non-speaking order, which does not reflect any satisfaction of the learned Magistrate regarding the commission of alleged offences. It is further argued that though an inquiry under Section 202 Cr.P.C. was conducted, the same has not been considered at all while passing the impugned order. It is also contended that an FIR bearing No. 136 dated 16.05.2008 had earlier been registered at the instance of the petitioners against the complainant, however, the said material aspect has also not been taken into consideration by the Courts below.

3. On the other hand, learned counsel for the respondent submits that there is no illegality in the impugned order. Petitioners/accused have been rightly summoned after finding *prima facie* case against them.

4. Having heard learned counsel for the parties and perused the record, this Court finds that the present petition has been filed for quashing of the order dated 03.09.2016 (Annexure P-1) passed by the learned Additional Sessions Judge, Rohtak in Criminal Revision No. 12 of 2016, as well as order dated 08.12.2015 (Annexure P-2) passed by the learned Additional Chief Judicial Magistrate, Rohtak, whereby the petitioners have been summoned to face trial under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 506 read with Section 34 IPC.

5. A perusal of the impugned summoning order dated 08.12.2015 shows that the learned Magistrate, after noticing the statements of the complainant and his witnesses, has proceeded to summon the petitioners primarily by placing reliance upon a judgment passed in “*M/s Lily Hire Purchase Pvt. Ltd. Jalandhar vs. Darshan Lal*” 1997 (2) CCJ 23, without



recording any satisfaction or reasons indicating application of mind to the material placed on record. There is no discussion in the order as to how the ingredients of the alleged offences are made out from the evidence led by the complainant. It is further noticeable that though an inquiry under Section 202 Cr.P.C. was conducted and a report was submitted, there is no reference whatsoever to the said inquiry report in the impugned order. The absence of any consideration of the material collected during the course of inquiry under Section 202 Cr.P.C. clearly indicates that the learned Magistrate has not applied his mind to all the relevant material before issuing process.

6. It is also the specific case of the petitioners that prior to the filing of the present complaint, an FIR bearing No. 136 dated 16.05.2008 had been registered at the instance of the present petitioners against the complainant. The impugned order does not reflect any consideration of this aspect as to whether the present complaint is a counterblast to the said FIR. The Hon'ble Supreme Court in "*Mehmood Ul Rehman vs. Khazir Mohammad Tunda and others*" as reported in 2015 AIR(SC) 2195 has categorically held that while issuing process, the Magistrate must indicate that he has applied his mind to the facts of the case and the material on record and that there must be sufficient indication in the order that the Magistrate is satisfied that the allegations constitute an offence. It has been further held that summoning of an accused is a serious matter and cannot be done in a mechanical manner and that absence of such indication amounts to non-application of mind.

7. In the present case, the impugned order does not disclose any such satisfaction or reasoning. The order is completely silent on the material



collected during the inquiry under Section 202 Cr.P.C. and lacks any discussion of the essential ingredients of the offences alleged. The same, therefore, cannot be sustained being a non-speaking order passed without due application of mind.

8. Consequently, the impugned order dated 08.12.2015 (Annexure P-2) as well as the order dated 03.09.2016 (Annexure P-1) affirming the same are hereby set aside. The matter is remitted back to the learned trial Court for fresh consideration of the complaint in accordance with law. The learned Magistrate shall pass a fresh order after considering the entire material on record, including the inquiry conducted under Section 202 Cr.P.C., and thereafter proceed further in accordance with law.

9. All pending applications, if any, also stand disposed of.

17.03.2026
Anu

(MANDEEP PANNU)
JUDGE

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