

2026:PHHC:012904



CRM-M-26167-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(125) CRM-M-26167-2020 (O & M)
Date of decision: 29.01.2026

Ashok Kumar Kanda

..... Petitioner(s)

V/s

Jyoti Marwaha

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Puneet Bali, Sr. Advocate,
with Ms. Bhagyashri Setia, Advocate,
for the petitioner.

Mr. Arnav Sood, Amicus Curiae,
for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of criminal complaint bearing No.698 of 2019 dated 04.09.2019 (Annexure P-1) titled as 'Jyoti Marwaha versus Ashok Kumar Kanda & others' for offence under Sections 419, 420, 467, 468, 471, 474 and 120-B IPC pending in the Court of JMIC, Chandigarh, the summoning order dated 14.01.2020 (Anexure P-2) and all other subsequent proceedings emanating therefrom.

2. The learned Senior counsel for the petitioner, at the very outset, submits that the compliance under Section 202 Cr.P.C. has not been made inasmuch as no enquiry as envisaged under that provision was ever conducted. He, therefore, prays that the impugned order dated 14.01.2020



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(Annexure P-2) be quashed and the matter be remanded back for compliance of Section 202 Cr.P.C.

3. The learned Amicus Curiae for respondent No.2/complainant, on the other hand, contends that the offence stands established beyond doubt and therefore, the present petition is liable to be dismissed. He, however, concedes that a mandatory enquiry under Section 202 Cr.P.C. has not been held in the instant case.

4. I have heard the learned counsel for the parties.

5. On 15.09.2020, the following order was passed:-

By placing reliance upon a judgment of the Supreme Court in Birla Corporation Limited Vs. Adventz Investments and Holdings Limited and others, (2019) 16, SCC 610, learned senior counsel appearing for the petitioner argues that the enquiry under Section 202 Cr.P.C, is required to be done diligently and material should be available on record to convince the Court that in fact, an offence had been committed and that the filing of the criminal complaint was not a tool for harassing the accused residing beyond the jurisdiction of the concerned Court. In the present case, no enquiry under Section 202 Cr.P.C. has been conducted and on account of this reason alone, the summoning order is bad in law.

Notice of motion.

Mr. Aditya Jain, Advocate, for U.T. Chandigarh accepts notice on behalf of respondent No.1 and waives service. A copy of the paper book be supplied to him within two days from today.

Adjourned to 12.1.2021.

Respondent No.2 be served in the ordinary manner.

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Meanwhile, further proceedings before the trial Court shall remain stayed.

6. In the present case, some of the accused reside outside the jurisdiction of the Courts at Chandigarh. Apparently, the recording of a statement under Section 200 Cr.P.C. would not amount to compliance of the provisions of Section 202 Cr.P.C. Therefore, the Court ought to have conducted an enquiry under Section 202 Cr.P.C. before proceedings to summon the accused.

7. In view of the above, the summoning order dated 14.01.2020 (Annexure P-2) is quashed. The Trial Court is directed to conduct an enquiry under Section 202 Cr.P.C. and only then proceed in accordance with law.

8. The present petition stands disposed of in the above terms.

January 29, 2026
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No