

2026.PHHC.019833



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

**CRM-M-41312-2021 (O&M)
RESERVED ON: 05.02.2026
PRONOUNCED ON: 09.02.2026
UPLOADED ON: 11.02.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

HAMID HUSSAN

.....PETITIONER

VERSUS

SANDEEP KUAMR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Anil Rathee, Advocate and
Mr. Tanvir Singh, Advocate
for the petitioner.

Mr. Anuj Balian, Advocate
for respondents No.1 to 8.

Mr. Vikram Singh, AAG, Haryana.

MANDEEP PANNU, J (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the order dated 24.01.2020 (Annexure P-9) as well as the order dated 09.01.2019 (Annexure P-7), passed by the learned Judicial Magistrate Ist Class, Panchkula, in Criminal Complaint No. COMI/2/2019 dated 04.01.2019, titled as “Hamid Hussan versus Sandeep and others”, instituted under Sections 148, 149, 323, 452 and 506 of the Indian Penal Code, Police Station Raipur Rani, District Panchkula.

2. The complainant is a permanent resident of Village Garhi Kotaha, Raipur Rani, Tehsil and District Panchkula. A civil dispute relating to possession of a residential house and land situated in Village Garhi Kotaha was pending between Smt. Paramjit Kaur and the father of accused No.4, which ultimately culminated in a decree in favour of Smt. Paramjit Kaur and delivery of possession through execution proceedings in April 2015. It is alleged that, consequent to the said civil litigation and delivery of possession, the accused persons developed enmity and grudge against the complainant and his family. On 02.10.2015, it is alleged that accused Nos.1 to 8, forming an unlawful assembly, trespassed into the house of the complainant, assaulted him with lathis, iron rods and sharp-edged weapons, extended threats to his life, and caused injuries to him and his son. It is further alleged that the accused persons again returned in the evening hours on a motorcycle, reiterated threats, and inflicted further injuries, as a result of which the complainant had to be taken to the Community Health Centre, Raipur Rani, and thereafter to Govt. Hospital, Sector-6, Panchkula, where medical examination and CT scan were conducted. The complainant asserts that despite an initial written complaint made to the police on the same day, no FIR was registered immediately, and the police initiated only preventive proceedings. Subsequently, FIR No.126 dated 09.10.2015 under Sections 148, 149, 323, 452 and 506 IPC was registered at Police Station Raipur Rani. Alleging improper investigation, the complainant asserted that the investigating agency, due to political influence and pressure, did not conduct a fair and proper investigation and wrongly left out, accused /respondent Nos.4 to 8 and only respondents/accused Nos.1 to 3 were arrayed as accused whereas respondent Nos.4 to 8 were placed in column No.2 and also Police

gave up the offences under Sections 452, 148 and 149 IPC, despite the specific allegations made in the complaint. It was further alleged that the police submitted the challan without collecting and placing on record all relevant incriminating material. Aggrieved thereof, the complainant moved an application under Section 173(8) Cr.P.C. seeking further investigation, however, the said application was dismissed vide order dated 18.10.2018. The accused were chargesheeted under section 323, 506 read with section 34 IPC.

3. All these circumstances led to the filing of the present complaint, which came up for consideration before the learned Judicial Magistrate First Class, Panchkula on 09.01.2019 for recording of preliminary evidence. The complainant examined himself as PW-1. Thereafter, the matter was adjourned for further preliminary evidence to 29.01.2019, on which date PW-2 Shahin Hussain was examined. Subsequently, the case was adjourned from time to time and, in all, four witnesses were examined at the stage of preliminary evidence.

4. It is submitted by the petitioner in the present petition that the learned Judicial Magistrate First Class, Panchkula, on the one hand examined the complainant as PW-1 in the complaint case on 09.01.2019; however, on that very day, the complaint case was clubbed with the FIR case without assigning any reasons. It is further submitted that neither any notice was issued to the accused nor were summons issued to the accused in the complaint case before passing the said clubbing order dated 09.01.2019, which, according to the petitioner, is patently illegal. It is further submitted that although the petitioner had moved an application seeking clubbing of the criminal complaint with the FIR case, the same was liable to be

considered only after the accused in the complaint case were summoned in accordance with law. The grievance raised in the present petition is essentially to the procedure adopted for clubbing of the cases, and the specific issue raised is that the complaint case could not have been clubbed with the FIR case prior to summoning of the accused. On this premise, the petitioner has challenged the clubbing order dated 09.01.2019 (Annexure P-7).

5. It is further submitted by the petitioner that the subsequent order dated 24.01.2020 has been independently challenged on distinct and separate grounds. It is the specific case of the petitioner that the findings recorded by the learned Judicial Magistrate First Class, Panchkula, as noticed in the said order, are not only contrary to the provisions of law but are also against the settled principles of law. It is submitted that the reliance placed upon the provisions of Sections 311 and 319 of the Code of Criminal Procedure is wholly misconceived, as the said provisions come into operation only in a situation where no complaint case is pending and the accused are shown in column No.2 of the report under Section 173 Cr.P.C., which is not the position in the present case.

6. It is further submitted that if the order dated 24.01.2020 is allowed to stand, it would result not only in grave injustice to the petitioner but would also render the trial unnecessarily lengthy, thereby frustrating the very purpose of filing the complaint. It is specifically alleged that the learned Magistrate failed to take into consideration the mandate of Section 210 Cr.P.C. before passing the impugned order. As per the said provision, the Magistrate is required to inquire into or try together the complaint case and the case arising out of the police report, subject to the condition that the

person concerned is an accused in both the cases. It is the settled position of law, as asserted by the petitioner, that an individual attains the status of an accused in a complaint case only upon being summoned by the Court, which admittedly had not taken place in the present case.

7. It is further submitted that although the petitioner had raised objections to the clubbing of the cases, the same could have been considered only after summoning of the accused in the complaint case in accordance with law. On these grounds, the petitioner has contended that both the orders dated 24.01.2020 and 09.01.2019 are liable to be set aside.

8. In the present case, the core controversy revolves around the question as to whether the procedure prescribed under Section 210 of the Code of Criminal Procedure has been duly followed by the learned Magistrate or not. The petitioner has no objection to the clubbing of the complaint case with the case arising out of the police report; however, the limited and specific grievance raised is with regard to the stage at which such clubbing was ordered, inasmuch as the accused in the complaint case had not yet been summoned. Thus, the only question that arises for consideration is whether the learned Magistrate adhered to the mandatory procedure under Section 210 Cr.P.C. while directing clubbing of the complaint case with the police case.

9. Section 210 of the Code of Criminal Procedure lays down the procedure to be followed where there is a complaint case and, in respect of the same offence, an investigation by the police is also in progress or a police report has been filed. The scheme of Section 210 Cr.P.C. makes it clear that the Magistrate is first required to stay the proceedings in the complaint case and call for a report from the police. Upon receipt of the

police report, if it appears that the police report relates to the same offence and the accused in the complaint case and the police case are common, the Magistrate is required to inquire into or try both the cases together as if both had been instituted on a police report.

10. The expression “accused” occurring in Section 210 Cr.P.C. has a definite legal connotation. In a complaint case, a person attains the status of an accused only after the Magistrate applies judicial mind to the preliminary evidence recorded under Sections 200 and 202 Cr.P.C. and passes a summoning order. Until such summoning is made, the persons named in the complaint do not acquire the legal status of accused. Consequently, the stage of joint trial or clubbing contemplated under Section 210 Cr.P.C. arises only after the accused in the complaint case have been summoned in accordance with law.

11. Thus, the procedural mandate under Section 210 Cr.P.C. requires that before directing joint trial or clubbing of a complaint case with a case arising out of a police report, the Magistrate must first complete the procedure prescribed for a complaint case and determine, by way of a summoning order, as to who are to face trial as accused. Any clubbing or joint trial ordered prior to summoning of the accused in the complaint case would not be in conformity with the statutory procedure envisaged under Section 210 Cr.P.C.

12. In view of the aforesaid discussion, it is held that the procedure prescribed under Section 210 Cr.P.C. has not been followed in the present case. Consequently, the impugned orders dated 09.01.2019 (Annexure P-7) and 24.01.2020 (Annexure P-9) are hereby set aside.

13. The matter is remitted to the learned Judicial Magistrate First Class, concerned with a direction to reconsider the complaint case from the stage of summoning of the accused, in accordance with law. The learned Magistrate shall thereafter proceed to follow the prescribed procedure, consider the question of clubbing of the complaint case with the police case strictly in accordance with the mandate of Section 210 Cr.P.C.
14. The present petition is disposed of in the aforesaid terms.
15. All pending miscellaneous application(s), if any, stands disposed of.

09.02.2026

Poonam Negi

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No