

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

135

2026.PHHC.060473



CRM-M-43598-2021 (O&M).
Date of decision: 21.04.2026.

SANTOKH SINGH

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Rajesh Bhatheja, Advocate,
for the petitioner(s).

Mr. Mohit Kapoor, Sr. DAG, Punjab.

Mr. S.S. Salar, Advocate,
for the complainant.

VINOD S. BHARDWAJ, J. (Oral)

Present petition has been filed for seeking quashing of impugned order dated 12.03.2020 passed by the Judicial Magistrate First Class, Moga, whereby the petitioner has been summoned to face trial for offence under Section 409 of the Indian Penal Code, 1860, in a case arising out of FIR bearing No.4 dated 02.07.2017, under Section(s) 409 of the Indian Penal Code, 1860, registered at Police Station NRI Moga, District Moga.

Learned counsel appearing on behalf of the petitioner(s) vehemently contends that the complainant Narinder Singh Dhillon had moved

an application to the police alleging that in the month of December 2009, Itwinder Singh and Santokh Singh (petitioner herein), who are closely related to the complainant and his brother, being cousins of their father, had represented that they could assist in leasing out the agricultural land of the complainant and secure a fair rental income against the same. As per the allegations, in the month of April 2010, the said accused informed the complainant that the entire land had been leased out at the rate of Rs.28,000/- per acre per annum to one Jarnail Singh (since deceased) and Ruldu Singh, son(s) of Jarnail Singh and that they had received half of the lease amount, which would be remitted to the complainant within a month. However, the said amount was never paid or transferred to the complainant. Learned counsel further submits that it is also alleged that in April 2011, Itwinder Singh and Santokh Singh again informed the complainant that the land had been leased out to one Harbans Singh son of Dalbara Singh at the rate of Rs.32,000/- per acre per annum; however, the lease proceeds even in respect of the said transaction were not remitted to the complainant.

It is submitted by the counsel for the petitioner that upon receipt of the aforesaid application, the matter was investigated into by the police. As per the investigation, in the year 2008, the complainant Narinder Singh Dhillon and his brother Satnam Singh Dhillon had executed a power of attorney only in favour of Itwinder Singh and on the strength of the said authority, Itwinder Singh had leased out the land belonging to the complainant and had received the lease amount. It is submitted that as per the investigation, no authorization had ever been granted to Santokh Singh (the petitioner herein), and therefore, the offence under Section 409 IPC was not found to be

made out against him. Consequently, a final report under Section 173 Cr.P.C. was filed on 17.08.2018 only against Itwinder Singh. Eventually, vide order dated 16.10.2019, charge under Section 409 IPC was framed against Itwinder Singh son of Surain Singh and the case was fixed for prosecution evidence. Thereafter, during the course of trial, the complainant Narinder Singh Dhillon appeared as PW-3, and his examination-in-chief was recorded on 25.02.2020, wherein he made general allegations against the present petitioner Santokh Singh as well, in terms similar to those contained in the original application submitted before the police.

An application under Section 319 Cr.P.C. was then moved for seeking summoning of the petitioner as an additional accused. Vide order dated 12.03.2020, the Judicial Magistrate First Class, Moga allowed the said application filed under Section 319 Cr.P.C. and directed summoning of the petitioner for the offence under Section 409 IPC. Hence, the present petition.

Learned counsel appearing on behalf of the petitioner submits that the learned Trial Court erred in appreciating the material on record, inasmuch as the essential ingredients constituting the offence under Section 409 IPC are not made out against the petitioner. It is contended that there is no documentary evidence whatsoever to establish that the petitioner stood in the capacity as an agent of Narinder Singh Dhillon or his brother Satnam Singh Dhillon. It is further contended that in the absence of any legally established principal-agent relationship, the foundational requirement for invoking the provisions of Section 409 IPC remain unfulfilled. Consequently, the offence alleged against the petitioner cannot be said to be attracted.

Learned counsel appearing on behalf of respondent No. 2—complainant, on the other hand, submits that the specific case of the complainant is that the petitioner had also received the lease amount along with his brother Itwinder Singh and that both of them had shared the proceeds thereof. It is contended that, even if the offence under Section 409 IPC is not strictly made out, the material on record may still disclose the commission of a lesser or minor offence for which the petitioner could be proceeded against in accordance with law. However, learned counsel fairly does not dispute that the impugned order, whereby the petitioner has been summoned for a specific offence, does not adequately establish existence of the essential ingredients required for constituting such offence. He also does not dispute that the order passed is non-speaking and does not reflect proper consideration of the judicial precedents prescribing guidelines to be adhered to while summoning any person as additional accused under Section 319 Cr.P.C.

In view of the above, learned counsel submits that he would have no objection if the impugned summoning order is set aside and the matter is remanded to the learned Trial Court for passing a fresh order in accordance with law, if so advised.

Accordingly, the present petition is allowed. The impugned order dated 12.03.2020 passed by the Judicial Magistrate First Class, Moga, summoning the petitioner to face trial under Section 409 of the Indian Penal Code, 1860, in case bearing No.CHI/962/2018 arising out of FIR bearing No.4 dated 02.07.2017, under Section(s) 409 of the Indian Penal Code, 1860, registered at Police Station NRI Moga, District Moga, is set aside. The matter is remanded to the trial Court to re-examine the matter, in light of the settled

legal principles and to pass a fresh order in accordance with law.

April 21, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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