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CRM-M-57427-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH  
(128) CRM-M-57427-2022 (O & M)  
Date of decision: 12.02.2026

(Through V.C.)

Haspreet Singh and anr. .... Petitioner(s)

V/s

The State of Punjab and ors. ...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Komalpreet Singh, Advocate,  
for Mr. Gaurav Datta, Advocate,  
for the petitioner(s).

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Vishaldeep Goyal, Advocate,  
for respondent No.2.

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**JASJIT SINGH BEDI, J. (Oral)**

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned order dated 17.11.2022 (Annexure P-5) passed by the Sessions Judge, Fatehgarh Sahib vide which the revision petition of respondent No.2 has been allowed without notice to the petitioner (complainant) and the summoning order dated 23.09.2022 (Annexure P-4) passed by the Judicial Magistrate Ist Class, Fatehgarh Sahib in FIR No.63 dated 10.07.2017 under Sections 452, 323, 341, 506, 148, 149 IPC, Police Station Mulepur, District Fatehgarh Sahib has been set aside.

2. The learned counsel for the petitioner-complainant (hereinafter known as the petitioner) contends that an FIR was registered at the instance

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Harpreet Singh were challaned. The petitioner moved an application to summon Manjodh Singh and Parwinder Singh @ Pindu as additional accused. The said application was allowed by the Court of Judicial Magistrate Ist Class, Fatehgarh Sahib vide order dated 23.09.2022 (Annexure P-4). Manjodh Singh challenged the said order before the Sessions Court, Fatehgarh Sahib. Without hearing the petitioner, the Sessions Court set aside the order of the Magistrate (Annexure P-4) with the directions that he was to consider the application under Section 319 Cr.P.C. afresh after examining all the evidence on record. He contends that the Sessions Court could not have passed the order dated 17.11.2022 (Annexure P-5) without hearing the petitioner in terms of Section 401(2) Cr.P.C.

3. The learned counsel for the State and the counsel for the complainant have not disputed the legal position but contend that no fault can be found with the order of remand dated 17.11.2022 (Annexure P-5) and therefore, the present petition is liable to be dismissed.

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

5. Section 401(2) Cr.P.C. reads as under:-

*Section 401(2) Cr.P.C. No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.*

6. In '*Manharibhai Muljibhai Kakadia and another versus Shaileshbhai Mohanbhai Patel and others 2012(4) RCR(Criminal) 689*', the Hon'ble Supreme Court while interpreting Section 401(2) Cr.P.C. held that

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the effected party ought to be heard before an order is passed to his detriment.

7. Coming back to the facts of the petition, admittedly, it was the petitioner who moved an application under Section 319 Cr.P.C. to summon the accused who were declared innocent. One of the said accused filed a revision petition against the summoning order dated 23.09.2022 (Annexure P-4). At this stage, the Sessions Court ought to have called upon the petitioner to address the Court but did not do so. In fact, only the counsel for the petitioner therein, namely, Manjodh Singh and the public prosecutor for the State are marked as present. Apparently, there is a clear violation of Section 401(2) Cr.P.C.

8. In view of the above, the impugned order dated 17.11.2022 (Annexure P-5) passed by the Sessions Judge, Fatehgarh Sahib is set aside. The matter is remanded back with directions that the Sessions Court, Fatehgarh Sahib shall adjudicate upon the revision petition of Manjodh Singh after giving adequate opportunity of hearing to the petitioner.

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

**February 12, 2026**  
sukhpreet

**( JASJIT SINGH BEDI)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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