

(2010) 08 P&H CK 0367

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Gurnam Singh and Others

APPELLANT

Vs

Swaran Kaur

RESPONDENT

Date of Decision: Aug. 2, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 323, 324, 325, 34

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Jaswant Singh, J.

Crl.M. No. 39000 of 2010

Application is allowed as prayed for.

Crl.M. No. 21971-M of 2010

1. In the instant petition filed u/s 482 Cr.P.C., petitioners have prayed for quashing of complaint No. 22 of 15.6.2007 instituted by the respondent-complainant Swaran Kaur, summoning order dated 12.2.2009 (P.4) passed by Id. JMIC, Kapurthala whereby petitioners have been summoned in the said complaint case under Sections 323/324/325 read with Section 34 IPC and order dated 20.5.2010 (P.5) passed by Id. Additional Sessions Judge, Kapurthala dismissing the revision petition filed by the petitioners-accused.

2. Learned Counsel submits that the summoning order (P.4) is totally non-speaking reflecting non-application of mind and the same is liable to be set aside. It is further urged that order dated 20.5.2010 (P.5) passed by the revisional court also suffers from illegality as the summoning order has been confirmed only on the basis that

after issue of summons, petitioners have appeared and preferred bail applications.

3. After hearing learned Counsel for the petitioners and keeping in view the law settled by Hon"ble the Supreme Court in [Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others](#), wherein it has been held that the order of the Magistrate summoning the accused should reflect application of mind to the facts of the case in view of the evidence placed on record, I find that the claim of the petitioners is meritorious.

4. In the present case, summoning order passed by the Judicial Magistrate reads as under:

Heard. There is sufficient ground to proceed against the accused u/s 323/324/325 read with Section 34 IPC. Therefore, the accused ordered to be summoned for 22.4.2009.

5. It is evident from the abovesaid order that it suffers from total non-application of mind, therefore, the same deserves to be quashed. Accordingly, order dated 12.2.2009 (P.4) passed by Id. JMIC, Kapurthala as well as order dated 20.5.2010 (P.5) passed by Id. Additional Sessions Judge, Kapurthala are set aside. Learned trial Court is directed to pass fresh order in accordance with law.

6. Allowed in the above terms.