

(2006) 05 P&H CK 0223

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 49703/M of 2004

Prem Lata and others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision: May 17, 2006

Acts Referred:

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

Hon'ble Judges: Kiran Anand Lall, J

Bench: Single Bench

Advocate: Veneet Sharma, for the Appellant; Ashutosh Hoshiarpuri, Assistant Advocate General Punjab For the Respondent No. 2 Mr. Gurcharan Dass, for the Respondent

Judgement

Kiran Anand Lall, J.

This petition u/s 482 of the Code of Criminal Procedure has been filed by the petitioners for the quashing of complaint filed by Surinder Pal Moudgill respondent against them, under Sections 323, 504 and 506 IPC, Annexure P1, and the order dated 10.04.2004, Annexure P19, vide which they were summoned, as accused, by the Court.

2. The trial Court has only ordered summoning of the petitioners, as accused, in the complaint. It is, therefore, open to them to plead before the Magistrate that the process against them ought not to have been issued and this right flows to them from the provision contained in Section 245 (2) of the Code of Criminal Procedure, which reads as under :-

245. When accused shall be discharged.

(1).....

(2) Nothing in this Section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such

Magistrate, he considers the charge to be groundless.

3. If any authority is needed on the point, reference may be made to [K.M. Mathew Vs. State of Kerala and another](#), in which it was held that "the order issuing the process is an interim order and not a judgment. It can be varied or recalled. The fact that the process has also been issued is no bar to drop the proceedings if the complaint on the very face of it does not disclose any offence against the accused".

4. In the light of what has been discussed above, it is held that it is not a fit case calling for quashing of complaint and the summoning order, in the exercise of inherent powers u/s 482 of the Code of Criminal Procedure. But, it is clarified that the petitioners will be within their rights to take up all the pleas available to them, before the trial Court, at appropriate stage.

5. Dismissed.