

2025:PHHC:086899



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

**CRM-M-21635-2025  
Date of Decision:10.07.2025**

Rumal Chand

...Petitioner

Versus

Kuldeep Raj @ Deepa

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**Present:** Mr. S.K. Chaudhar, Advocate  
for the petitioner(s).

\*\*\*

**RAJESH BHARDWAJ, J. (ORAL)**

1. The instant petition has been filed under Section 528 of BNSS, 2023 for quashing of judgment dated 20.08.2024 passed by the Ld. Sessions Judge, Gurdaspur (Annexure P-2) and judgment dated 15.02.2019 (Annexure P-1) passed by the Ld. JMIC, Gurdaspur in complaint COMA No.111/2016 registered on 07.06.2016 under Sections 3 & 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 323/506 of IPC and further prayer has been made to summon the respondent in the present complaint to face the trial.

2. Succinctly, facts of the case are that the petitioner filed a complaint mentioned above before the Ld. JMIC, Gurdaspur. The learned trial Court on appreciation of the preliminary evidence led by the petitioner found no merits in the complaint and thus, dismissed the same vide its order dated 15.02.2019 (Annexure P-1). Aggrieved by the same, petitioner filed the revision petition before the Ld. Additional Sessions Judge, Gurdaspur. The

learned Revisional Court re-appreciated the evidences led by the petitioner in view of the law laid down and found no infirmity in the impugned order passed by the trial Court. Thus, upholding the order passed by the trial Court dismissed the revision petition vide its impugned judgment dated 20.08.2024 (Annexure P-2). Thus, both the Courts have given the concurrent finding against the petitioner. Hence, aggrieved by the same, petitioner has approached this Court by way of filing the present petition.

3. It has been contended by the learned counsel for the petitioner that cognizable offence is made out against the respondents in view of the preliminary evidences led by the petitioner. He submits that the petitioner in his preliminary evidences examined Prem Lal as CW-1, Diwan Chand as CW-2 and complainant himself examined as CW-3. The medical record of the petitioner had also been appended. It is submitted that the claim version has been duly established by the evidence led by the complaint. He further submits that both the Courts have miserably failed to appreciate the evidences led and thus, by misreading evidences led by the complaint, the trial Court has illegally dismissed the complaint.

4. Hon'ble Supreme Court in case of *M/s Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. (1998) 5 SCC 749* laid down the golden standard for summoning of a person as an accused in a complaint case. Paragraph 28 therein is noteworthy and it reads thus:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind

to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

5. Hon’ble Supreme Court in *Aniruddha Khanwalkar vs. Sharmila Das, 2024 AIR Supreme Court 2802*, has held that for summoning of an accused at preliminary stage, a prima facie case is to be made out on the basis of the allegations in the complaint and the pre-summoning evidence led by the complainant.

6. After hearing learned counsel for the petitioner and perusing of the record, it has been observed that the petitioner had contended before the trial Court that he had filed the complaint against the accused before the Senior Superintendent of Police, Gurdaspur but no such record was placed before the learned trial Court and thus, in the absence of any record, he failed to convince the Court that any complaint was lodged by him with the police. No medico-legal examination report was also placed on the record as per observation made by the learned trial Court. The arguments advanced regarding the offences alleged under the SC & the ST (Prevention of Atrocities) Act, 1989 and Sections 323/506 of IPC had also been examined in the light of the law settled. However, no *mens rea* was found in the same. Thus, the complaint was dismissed. This has been re-appreciated by the learned Revisional Court as

well. The petitioner without approaching the S.H.O. and S.S.P. concerned straightway filed the complaint before the learned trial Court. Thus, both the Courts have found that no *prima facie* case as alleged in the complaint was made out as the essential ingredients were not made out. Both the Courts have taken a concurrent view and re-examination of the same in the light of the law settled, this Court does not find any infirmity in the orders passed by the both the Courts below. Thus, there is no merit in the present petition and the same is hereby stands dismissed.

**10.07.2025**

*Parveen kumar*

**(RAJESH BHARDWAJ)  
JUDGE**

Whether speaking/reasoned :Yes/No

*Whether reportable* :Yes/No