



CRM-A-3095-2019(O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

257

CRM-A-3095-2019(O&M)

**Decided on :01.09.2025**

Maura Singh

. . . Applicant

Versus

State of Punjab and others

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: None for the applicant.

\*\*\*\*

**SANJAY VASHISTH, J. (Oral)**

1. By filing an application under Section 378(4) Cr.P.C. seeking leave to appeal, applicant, Maura Singh, has challenged the order dated 26.08.2019, whereby the criminal complaint filed by him (CIS Case No. CRM/258/2016, CNR No. PBBT03-017394-2016, DOI: 29.10.2016) was dismissed at the pre-summoning stage by the learned Judicial Magistrate First Class, Bathinda.

2. Complaint was filed against respondents No. 2 to 4 (as accused No. 1 to 3) for punishing them under Section 306, 34 of IPC.

After complainant led preliminary evidence, learned Judicial Magistrate First Class, Bathinda, found that the case was not fit for summoning the accused. Complainant's version appeared doubtful, particularly in the light of deceased's own statement that no one was responsible for the alleged poisoning. Ultimately, Court concluded that there were no sufficient grounds to proceed against the accused persons. Consequently, complaint was dismissed at pre-summoning stage,



without even issuing summons to respondents No. 2 to 4/accused No. 1 to 3, with the following observation:

*“13. In view of aforesaid discussion and considering the statements on oath of the complainant and of the witnesses, I am of the opinion that there is no sufficient ground for proceedings against accused under Section 306, 34 IPC. Hence, present complaint is dismissed under Section 203 Cr.P.C. File be consigned to record room.”*

3. Under Chapter XXIX, appeals are instituted by the affected party against judgments of conviction and acquittal.

An appeal against acquittal has been filed under Section 378 Cr.P.C., which reads as follows:

*“378. Appeal in case of acquittal.—(1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5)-*

*(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;*

*(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision.]*

*(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, 1 [the Central Government*



*may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal—*

*(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;*

*(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (a)] or an order of acquittal passed by the Court of Session in revision].*

***(3) [No appeal to the High Court] under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.***

***(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.***

*(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.*

*(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).”*

4. A bare reading of Sub-Section (3) negates the maintainability of an appeal in the High Court unless leave is first granted by the High Court.

5. Sub-Section (4) provides that the High Court may grant special leave to appeal against an order of acquittal if the complainant in a complaint case challenges such order.



**CRM-A-3095-2019(O&M)**

**4**

6. In the present case, there is no such order from where it can be concluded that accused were ever summoned, charged, and subsequently acquitted after facing trial proceedings and appreciation of evidence. In fact, accused (Respondents No. 2 to 4) were never summoned by the Court to face trial. Therefore, order passed at pre-summoning stage, where the Court was not even satisfied to summon the accused, cannot be challenged in the form of an appeal. Consequently, question of granting leave by the High Court does not arise.

If complainant was aggrieved and perceived that the Court had committed any error, proper remedy would have been to invoke the revisional jurisdiction under Chapter XXX of the Cr.P.C. to examine whether the complaint was supported by sufficient evidence to establish a prima facie case against the proposed accused/Respondents No. 2 to 4.

7. In view of the foregoing discussion and observations, this Court is of the opinion that application CRM-A-3095-2019, along with the memo and grounds of appeal, is not maintainable before this Court. Accordingly, same is hereby dismissed.

**(SANJAY VASHISTH)  
JUDGE**

**01.09.2025**

*Rashmi*

*Whether speaking/reasoned: Yes/No*

*Whether Reportable: Yes/No*