



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.262

Date of Decision: 11.02.2025

1) CRM-M-1340-2011 (O&M)

Monica Widhani and others Petitioners

Versus

Ram Niwas Agrawal and another ... Respondents

2) CRM-M-2166-2011 (O&M)

Nikhil Singh and others ... Petitioners

Versus

Ram Niwas Agrawal and another ... Respondents

3) CRM-M-22825-2012 (O&M)

Ram Niwas Agrawal Petitioner

Versus

Narinder Singh Lamba and another ... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Raman Sharma, Advocate, and
Mr. Amarsh Dudeja, Advocate,
for the petitioners in CRM-M Nos.1340 and 2166 of 2011.

Mr. Munish Kumar Garg, Advocate,
Ms. Bhawna Thakur, Advocate, and
Mr. Yuwan Singla, Advocate,
for the petitioner in CRM-M No.22825 of 2012.

Mr. Hemant Bassi, Advocate, and
Ms. Shivani, Advocate,
for the respondents in CRM-M No.22825 of 2012.

Mr. Rohit Arya, DAG, Haryana.



TRIBHUVAN DAHIYA, J. (ORAL)

All these petitions are being decided together as the issue involved in all these pertains to the criminal complaint case no.445-1, dated 24.12.2007, titled *Ram Niwas Agrawal v. Narinder Singh Lamba and others*, under Sections 420, 467, 468, 471, 120-B, 218 and 506 of IPC, pending before the Court of Sub Divisional Judicial Magistrate, Hansi. For brevity, the facts are being taken from CRM-M-1340-2011, which has been filed for setting aside the said criminal complaint, Annexure P-10, as also the order dated 02.11.2010, Annexure P-1, whereby the petitioners have been summoned to face trial for the aforementioned offences.

2. Briefly, the facts relevant to decide these petitions are:

2.1. In 1970 the dealership of retail petroleum outlet M/s Sukhbir Brothers was reconstituted with M.S. Lamba and P.K. Chaudhury as partners, as Sukhbir was going out of the dealership. After the reconstitution, the name of dealership was changed to M/s Haryana Auto Service. In 1976, one of the partners, M.S. Lamba, died and the other one, P.K. Chaudhury, resigned from the partnership. Accordingly, on 17.06.1976, with the consent of Bharat Petroleum Corporation Limited (for short, 'BPCL'), the dealership was again reconstituted by inducting Sudesh Lamba (daughter-in-law of deceased M.S. Lamba), Subhash Chand Goyal, and Ram Niwas Agrawal/respondent no.1/complainant.

2.2. The complainant vide letter dated 25.04.1994 informed the BPCL about a dispute between partners of the dealership firm M/s Haryana Auto Service which occurred in 1987. He alleged threats by other partners to oust him from the firm's ownership, as also changing the name of partners in



the income tax returns without obtaining permission from BPCL, and asked the officials to take action against the other two partners. The BPCL issued a show cause notice, dated 05.05.1997, Annexure P-2, to all the partners, to which replies dated 29.05.1997 and 30.05.1997, Annexure P-3, were submitted by the complainant and Subhash Chand Goyal.

2.3. On coming to know about the dissolution of partnership deed, dated 05.10.1988, executed amongst the aforesaid three partners, Director (Marketing) of BPCL, Hisar, vide letter dated 18.09.2000, Annexure P-5, informed Director (M), Ministry of Petroleum and Natural Gas, that there was difference in the signatures on dissolution deed and dealership agreement, therefore, it would not be possible for the BPCL to re-constitute the dealership unless resignation letter from the complainant, and a formal request for reconstitution from the existing partners were received. In response to this letter, a direction was received from the Ministry, vide letter dated 08.02.2001, Annexure P-6, not to initiate any action for termination of retail outlet dealership till it was proved in a Court of law as to whether the dissolution deed was forged or not, and whether signatures thereupon had been obtained under duress. On 15.01.2002, another letter was received by BPCL, Hisar, from the Ministry regarding reconstitution of the firm, Annexure P-7. On receipt of the instructions from the Ministry and request of the remaining partners, Subhash Chand Goyal and Sudesh Lamba, the dealership of M/s Haryana Auto Service was reconstituted under the partnership of these two with effect from 05.10.1988. This was done keeping in view the dissolution of partnership deed, dated 05.10.1988, whereby the complainant had resigned from partnership. Later, in view of the resignation of Sudesh Lamba from the partnership, the dealership was again



reconstituted in the name of Subhash Chand Goyal as the sole proprietor with effect from 04.03.2005, Annexure P-8.

2.4. The complainant, thereupon, filed a complaint before the police, dated 20.12.2005, Annexure P-9, alleging that he was forcibly ousted from the petrol pump by other partners in 1987. It was also stated therein that he met Territorial Manager (TM) of the BPCL, R.K. Singhal/petitioner no.3 in CRM-M-2166-2011, and requested him to take action but he misbehaved and asked him to resign from dealership. It was also alleged that the TM conspired with Subhash Chand Goyal against the complainant, and vide letter dated 27.12.2000 gave him one month's extra time for filing reply as he knew by that time the then GM would leave the BPCL.

2.5. The complaint was thoroughly investigated by the police and inquiry report, dated 27.01.2006, Annexure P-4, was submitted by Deputy Superintendent of Police, Hisar, concluding that no offence was made out as per the allegations levelled. The report concluded as under:

From the above enquiry, no element of cheating has been found to attract a police case. There is some internal dispute of give and take between the parties. The complainant can raise his issue relating to partnership before Civil Court, Consumer Court or before Bharat Petroleum Corporation. No offence is found to have been committed nor any likelihood of breach of peace is there. Report is submitted. The complainant had requested before Director General Police, Haryana that he should not be called for his statement again. Copy of which is enclosed.

2.6. Thereupon, the complainant approached this Court by filing criminal writ petition, CRM-M-32255-2007, seeking a direction for registration of FIR against Subhash Chand Goyal, Narinder Singh Lamba,



and the petitioners/officials of the BPCL, on the basis of complaint dated 20.12.2005, filed by him to the police upon which no offence was found to have been made out against them. This Court declined to issue a direction, and disposed of the petition vide order dated 21.05.2007, granting liberty to the complainant to approach the concerned Magistrate for the purpose.

2.7. Thereafter the complainant filed a criminal complaint under Section 156(3) of Cr.P.C. before SDJM, dated 24.12.2007, for registration of FIR. For the first time, the BPCL officials/petitioners herein were also impleaded as accused. The Magistrate declined to issue a direction for registration of the FIR. The complainant alleged that on 08.04.1987, Narinder Singh Lamba and Subhash Chand Goyal obtained his signatures on blank papers at gun point and threatened to kill him in case he entered the office of the petrol pump. It was also alleged that both of them prepared the dissolution deed by forging the signatures of another partner/Sudesh Lamba, as also by showing his signatures taken at gun point on the deed. It was further alleged that on the basis of forged dissolution deed, the TM/R.K. Singhal allowed reconstitution of the dealership firm and permitted the partners to run the petrol pump. To substantiate the allegations, the complainant examined himself as PW-1, and Forensic Document Expert Devendra Prasad as PW-2 to prove the alleged forgery of dissolution deed by N.S. Lamba and Subhash Chand Goyal.

2.8. After examining the pre-summoning evidence, the Magistrate dismissed the complaint vide order dated 17.08.2009, Annexure P-12, holding that it was nothing but a pressure tactic adopted by the complainant to settle personal scores with the alleged accused. It was also observed that



the dispute was of civil nature, and no fraud, etc., had been committed on the complainant.

2.9. Aggrieved against the said order dated 17.08.2009, the complainant approached the Court of Additional Sessions Judge, Hisar, by filing a criminal revision petition no.49 of 2009 on 16.11.2009. It was allowed vide order dated 06.05.2010 by setting aside the Magistrate's order dated 17.08.2009, and remanding the complaint to the Magistrate for reconsideration as investigation under Section 202 Cr.P.C. had not been carried out properly by the police. The relevant paragraph of the judgment reads as under:

3. After going through the lower Court record this Court concurs with the argument advanced by the learned counsel for the complainant because from the correspondence of the M/s Bharat Petroleum Corp. Ltd. it can be gathered that it has not seen the original of the dissolution deed till date. Even the police in its report under Section 202 Cr.P.C has nowhere recorded that original of the dissolution deed Ex.P-24 was ever seen by it during the course of investigation. The failure on the part of the police to bring on record the original of dissolution deed Ex. P-24 shows that the investigation under Section 202 was not carried out properly by the police. Consequently the impugned order is hereby set aside. The complaint in hand is remanded back to the trial Court. The learned trial Court should reconsider its order dated 17.8.2009, after directing the police under Section 202 of Cr.P.C. to place on record the original of dissolution deed Ex. P-24 or any other contrary report of the police. The complainant is directed to appear before the trial Court/Illaq Magistrate on 20.5.2010.

2.10. Pursuant thereto, the original dissolution deed dated 05.10.1988 was placed on record before the Magistrate, and the complainant examined handwriting and finger print expert who opined that complainant's



signatures had been forged. The Magistrate, thereafter, before proceeding against the accused, directed investigation by the police under Section 202 Cr.P.C. and SHO, Hansi, was directed to submit his report, vide order dated 23.05.2009. Accordingly, the police submitted its report before the Magistrate on 14.07.2009, Annexure P-16, again finding that no offence was made out against any of the accused as it was a civil dispute. Among others, the police recorded statements of Sudesh Lamba who stated, she was present in the meeting on 31.03.1988, and that she had herself signed the dissolution deed dated 05.10.1988. She also stated that uncle of her husband/Narinder Lamba had also put his signatures, which were crossed on account of objection raised by the complainant. The relevant extract of the police inquiry report is as under:

During investigation I, ASI recorded statements of partners of M/s Haryana Auto Service DHS Hansi namely Smt. Sudesh Lamba w/o Sh. Naresh Kumar Lamba r/o H.No.217, Jor Bag, Delhi Road, Delhi who in her statement has got recorded that on 1.7.76 she became partner of Haryana Auto Service, Hansi. Besides her Sh Subhash Goyal and Sh Ram Nivas Aggarwal also became partners. Prior to this Sh Subhash Goyal, ShMaha Singh Lamba and Sh Pardeep Chaudhary were partners. On 31.3.1988 Sh Ram Nivas Aggarwal also took away his share from Haryana Auto Service, Hansi and on that date she was also present in the meeting. In the said meeting a Dissolution Deed dated 5.10.1988 was written on which I also put my signatures alongwith Subhash Goyal and Ram Nivas Aggarwal. As witness Uncle of my husband Sh Narinder Lamba also put his signatures but because of objection being made by Sh Ram Nivas Aggarwal, his signatures were crossed and subsequently signatures were put by Sh S.K.Binder, Advocate, as witness. We three had put signatures together at the petrol pump. The version of Sh Ram Nivas Aggarwal that



Sh Subhash Goyal and Sh Narinder Lamba obtained his signatures on blank papers by showing pistol is false. Had his signatures been obtained by threat, he would not have put his signatures subsequently on the income tax return for the assessment year 1989-90 which also bear mine and Subhash Goyal's signatures. The allegation that upon dissolution dated 5.10.88 my signatures are forged is also false because I had put my signatures in the presence of all and to prove this I have got my signatures verified from the Expert, report of which is being produced. Because of my house-hold obligations I had taken out my share from Haryana Auto Service, Hansi on 4.3.2005 regarding which I had given a written letter to the Company on 24.12.04 and the complaint is being made by Ram Nivas Aggarwal out of greed.

In this regard, Territory Manager, Bharat Petroleum Corpn. Ltd. Rewari has given a written statement that on the basis of Dissolution Deed dated 5.10.1988 in terms of orders of General Manager Office dated 15.1.2002 and further orders dated 27.2.2002 upon receipt of orders of dissolution the shares were separated. And writing dated 8.4.1987 of Ram Nivas Aggarwal are not in the office and photocopy of which is dated 20.1.1986 which has been written by him to GM Retail, Noida and prior to this copy of said letter was also not in the office of company at Rewari.

The allegation is that on 8.11.1987 Sh Subhash Goyal and Sh Narinder Lamba obtained his signatures on blank papers by showing pistol and dissolution deed was prepared to oust him from Haryana Auto Service. Upon investigation it has been found that this stamp paper dated 5.10.1988 has been purchased from Sh S.N.Chhabra, Stamp Vendor, Hissar on the name of Haryana Auto Service entry regarding which is available in the register of Sh S.N.Chhabra, Stamp Vendor at serial no.8723 and further entry regarding calculations is available on the stamp paper whereas in the Ex.P24 attached with the complaint there is no writing. Regarding this statement of Sh S.N.Chhabra has



been recorded who has admitted that this stamp paper was purchased from him on 5.10.1988 which bears his signatures.

In the investigation done by me it has been found that Dissolution deed dated 5.10.88 in respect of Haryana Auto Service was prepared after purchasing stamp paper from Sh S.N.Chhabra upon which all the partners put their signatures and signatures of Sudesh Lamba were examined by Expert and letter dated 8.4.87 which has been written by Ram Nivas Aggarwal to SSO BPL Bharat Petroleum Hissar, was received alongwith letter dated 18.1.2006 from GM Retail, Bharat Petroleum, Noida written to Territory Manager, Bharat Petroleum, Rewari whereas all the files of Haryana Auto Service are available in the office of Territory Manager, Rewari. In the investigation of I ASI it has been found that Sh. Ram Nivas Aggarwal made no complaint between 1988 to 1994 nor did he make any complaint regarding incident dated 8.4.1987. Hence, no truth is found in the allegations made by the complainant.

2.11. The Magistrate, however, did not agree with the enquiry report and, vide impugned order dated 02.11.2010, summoned the petitioners as well as Subhash Chand Goyal and Narinder Singh Lamba as accused to face trial for offences punishable under Sections 420, 467, 468, 471, 120-B, 218 and 506 of IPC. The relevant extract of impugned order passed by the Magistrate is as under:

...In the present case, the complainant has adduced overwhelming oral as well as documentary evidence which prima facie leads to the conclusion that the accused Subhash Chand Goyal and Narinder Lamba have fabricated the signatures of the complainant on the dissolution deed and the remaining accused were also in connivance with them and they had not taken appropriate action against these two accused persons and had also not stopped the supply of petrol and diesel to the said Petrol Pump despite the fact that they were well



aware of the terms and conditions of the memorandum which had been submitted by them in the company and the complainant has placed on the file numerous letters which had been sent by him to the officials of the company as well wherein all the allegations have been reiterated but no action was taken against the culprits and as such prima facie sufficient evidence is available on the file which warrants that all the accused persons should be summoned to face trial for commission of offences punishable under sections 420/467/468/471/120B/218/506 IPC and as such the accused persons are summoned accordingly for 7.12.2010 on compliance of section 204 Cr.P.C on filing of PF and list of witnesses etc. and copies of complaint.

2.12. Two of the accused/Narinder Singh Lamba and Subhash Chand Goyal challenged the summoning order passed by the Magistrate, dated 02.11.2010, by filing criminal revision petition no.4 dated 14.01.2011, before Additional Sessions Judge, Hisar, which was accepted vide judgment dated 31.05.2012, and the Magistrate's order, dated 02.11.2010, was set aside *qua* the revisionists. The case was remanded to the trial Court to consider the evidence afresh and deal with the complaint in accordance with law. The relevant paragraphs of the judgment read as under:

20. Learned trial court in the present case was required to give some reasons or at least make a short reference as to why he did not consider the reports of the police given under section 202 Cr.P.C. and what evidence weighed more in his mind while making out a prima facie case. In case, a judicial analysis was required to be made as admittedly contrary evidence was also present on record. Complete absence on his part thus, has vitiate the order whereby reflected a jurisdictional error. In this regard reference can be made to Punjab National Bank's case (supra) and Anil Kumar Sah's case (supra) Punjab National Bank's case (supra). In the said authorities, report under section



202 Cr.P.C. prepared by police indicated a false case. Learned Magistrate without considering the facts in the said report set them aside. It was held that it amounts to abuse of process of court. Similarly our own High Court in Kuldip Raj Mahajan's case (supra) observed that without considering the investigation report/cancellation report of the police, the impugned summoning order could not have been legally passed by learned Magistrate.

21. The remand order dated 06.5.2010 as passed by Sh. Sudhir Jiwan, learned Revisionist Court had directed the trial court to reconsider the order dated 17.8.2009 after directing the police under section 202 Cr.P.C. to place on record the original of dissolution deed Ex.P24 or any contrary report of the police. In the impugned order learned Magistrate has not given any observation for ignoring the reports or which piece of evidence preferred and why, while considering a prima facie case. As noted above, he did not make any reference of the report sent by the police under section 202 Cr.P.C. and completely ignored the directions given by the learned Revisionist Court.

22. Per discussions, learned trial court committed jurisdictional error in not considering the entire matter, particularly reports under section 202 Cr.P.C. and travelled beyond the order of Revisionist Court by permitting the complainant to lead evidence of an Expert and considered the same while passing the impugned order.

23. As result, the impugned order is liable to be set aside and the same is hereby set aside qua the revisionists. Revision is accordingly accepted and the case is remanded back to learned trial court to consider afresh the evidence in the light of observations made above and deal with the complaint in accordance with law.

2.13. This judgment has been challenged before this Court by the complainant in the connected petition, CRM-M-22825-2012. And the remaining two petitions have been filed by the company officials



challenging the summoning order, dated 02.11.2010, *qua* them as they did not challenge it before the Sessions Court.

3. In this factual background, learned counsel for the petitioners have contended that the impugned order passed by the Magistrate is erroneous as it ignores the settled proposition of law and summons the petitioners despite there being no material on record implicating them in the case. Even if the allegations in the complaint are taken to be true, ingredients of none of the alleged offences are even *prima facie* made out against the petitioners. Besides, they are officials of the BPCL, who discharged their duties in a *bona fide* manner in line with directions issued by the superior officers, and are not beneficiaries of the transaction in any manner. *Secondly*, none of the officials of the BPCL were named in the initial complaint filed by the complainant to the police on 20.12.2005, and the complainant cannot be permitted to implicate them in the impugned complaint filed two years later before the Magistrate on 24.12.2007. This is an abuse of the process of law. *Thirdly*, it has been contended that the dissolution deed was executed in 1988, but the complaint was filed only on 20.12.2005, alleging forgery and fraud. This inordinate delay itself shows falsity of the allegations which have been levelled only to settle personal scores. *Fourthly*, the allegations depict it is a civil dispute between the partners of the dealership, but the complainant has not initiated any civil proceedings in the matter and he cannot be permitted to initiate criminal action regarding the dispute. *Lastly*, it has been contended that the order passed by the Additional Sessions Judge, dated 06.05.2010, accepting the criminal revision petition filed by the complainant and remanding the complaint to the Magistrate is itself without jurisdiction, as the petitioners were not afforded any opportunity of hearing before passing the order of remand. This is in violation of the settled law in



Manharibhai Muljibhai Kakadia and another v. Shailesh bhai Mohanbhai Patel and others, 2012 (10) SCC 517.

4. *Per contra*, learned counsel for the complainant submitted that summoning order was rightly passed as there was sufficient evidence against the petitioners on record. They forged signatures of the complainant as well as Sudesh Lamba in connivance with the co-accused, threatened him and conspired to throw him out of the dealership. Accordingly, ingredients of fraud were clearly made out against them. Besides, signatures of the complainant were obtained on blank papers at gun point which established the criminal intent. There was no delay in filing complaint since the dissolution deed was obtained from the police only after the police report, dated 14.07.2009, and only thereafter the complaint could have been filed against the petitioners.

5. Submissions made by learned counsel for the parties have been considered.

6. As per facts apparent on record, the petrol pump dealership of M/s Haryana Auto Service was reconstituted with effect from 05.10.1988. As per dissolution deed of the same date, the complainant had resigned from partnership. Later, out of the two partners, Subhash Chand Goyal and Sudesh Lamba, the latter also resigned; and the dealership was reconstituted in the sole proprietorship of the former with effect from 04.03.2005. The complainant filed the complaint with the police, dated 20.12.2005, alleging forcible ouster from the dealership firm by other partners and inaction on the part of the BPCL officials. After enquiring the complaint, the police, vide report dated 27.01.2006, concluded that no offence was made out as per the allegations levelled and it was essentially a civil dispute between the



partners. Thereafter, the complainant filed a criminal complaint under Section 156(3) of Cr.P.C. for registration of FIR. However, the Magistrate declined to issue any such direction on the allegations in the complaint. Pre-summoning evidence was led, and after analysing the same, the Magistrate dismissed the complaint vide order dated 17.08.2009. The complainant challenged the order in the Sessions Court by filing a revision petition which was accepted by the Additional Sessions Judge, vide order dated 06.05.2010. The Magistrate's order was set aside on the ground that failure on the part of the police to bring on record the original dissolution deed showed that investigation under Section 202 Cr.P.C. had not been carried out properly, and in this situation the complaint could not have been dismissed. Accordingly, the matter was remanded to the Magistrate to "reconsider its order dated 17.08.2009, after directing the police under Section 202 of Cr.P.C. to place on record the original of dissolution deed Ex. P-24 or any other contrary report of the police".

6.1. Pursuant thereto, the original dissolution deed was brought on record and the complainant examined handwriting and finger print expert, who opined that signatures had been forged on the dissolution deed. The Magistrate again directed the police under Section 202 Cr.P.C. to submit a report. The police vide its enquiry report, dated 14.07.2009, concluded that no offence was made out on the allegations. During enquiry, the statement of one of the partners/Sudesh Lamba, was recorded to the effect that dissolution deed was duly signed by the respective partners, and there was no threat to the complainant. She specifically denied that her signatures on the dissolution deed, dated 05.10.1988, were forged. However, the report was not agreed to by the Magistrate, who summoned the petitioners/company officials, as well as Subhash Chand Goyal and Narinder



Singh Lamba (respondents in CRM-M-22825-2012), as accused to face trial under Sections 420, 467, 468, 471, 120-B, 218 and 506 of IPC.

6.2. Both the respondents in CRM-M-22825-2012 challenged the summoning order in the Sessions Court, Hisar, by filing a revision petition, which was accepted vide judgment dated 31.05.2012, and the case was remanded to the trial Court to consider the evidence afresh and deal with the complaint in accordance with law.

6.3. The petitioners herein are officials of the company/BPCL, which gave retail dealership of petroleum outlet. At the time of filing the first complaint to the police on 20.12.2005, the complainant himself did not level any allegation against them, nor were they named as accused therein. For the first time, the allegations against the petitioners surfaced when the impugned complaint was filed before the Magistrate on 24.12.2007. This itself casts a doubt about veracity of the allegations levelled which appear to be an afterthought on the complainant's part. Further, a perusal of the allegations against the petitioners/company officials makes it clear that none of the ingredients of the alleged offences is made out against them, as they have essentially been accused of fraudulently reconstituting the dealership on the basis of a dissolution deed, dated 05.10.1988. By the time dealership was reconstituted, and even as on date, there is no conclusive finding by any Court of law that the deed is a result of forgery, fabrication or fraud. The petitioners' complicity in execution of the deed has not been established even *prima facie*, nor is there any material indicating that they are beneficiaries of the transaction in any manner. Still further, there is no denying the fact that the petitioners acted on a communication of the Petroleum Ministry to reconstitute the dealership. Therefore, there is no



substance in the allegations that they are party to the alleged fraud or forgery. Another aspect that cannot be lost sight of is, the dissolution deed was executed on 05.10.1988 and first police complaint alleging forgery, threat and intimidation was made on 20.12.2005, and the petitioners were named only subsequently in the criminal complaint to the Magistrate on 24.12.2007. This was after about nineteen years of execution of the dissolution deed and two years of reconstitution of the dealership. It is also a fact on record that Sudesh Lamba, whose signatures are alleged to have been forged, has denied the fact and admitted her signatures on the deed by making a statement to the police, as recorded in its report dated 14.07.2009, submitted to the Magistrate under Section 202 Cr.P.C. She has also stated that all the partners duly affixed their signatures on the deed, and there was no threat extended to the complainant. In these circumstances, continuance of criminal proceedings against the petitioners will be an abuse of process of the Court.

7. Further, the order dated 06.05.2010 passed by the Additional Sessions Judge/revisional Court setting aside the Magistrate's order, dated 17.08.2009, dismissing the complaint against the petitioners and other accused, is itself without jurisdiction. Once the complaint against the petitioners, dated 24.12.2007, stood dismissed by the Magistrate vide order dated 17.08.2009, they had a right of hearing before the revisional Court under Section 401(2) Cr.P.C. which was not afforded to them prior to setting aside the dismissal order, vide order dated 06.05.2010. A reference in this regard can be made to the Supreme Court judgment rendered in *Manharibhai Muljibhai Kakadia* case (*supra*), holding as under:

53. We are in complete agreement with the view expressed by this Court in *P. Sundarrajan, Raghu Raj Singh Rousha* and



A.N. Santhanam. We hold, as it must be, that in a revision petition preferred by the complainant before the High Court or the Sessions Judge challenging an order of the Magistrate dismissing the complaint under Section 203 of the Code at the stage under Section 200 or after following the process contemplated under Section 202 of the Code, the accused or a person who is suspected to have committed the crime is entitled to hearing by the Revisional Court. In other words, where the complaint has been dismissed by the Magistrate under Section 203 of the Code, upon challenge to the legality of the said order being laid by the complainant in a revision petition before the High Court or the Sessions Judge, the persons who are arraigned as accused in the complaint have a right to be heard in such revision petition. This is a plain requirement of Section 401(2) of the Code. If the Revisional Court overturns the order of the Magistrate dismissing the complaint and the complaint is restored to the file of the Magistrate and it is sent back for fresh consideration, the persons who are alleged in the complaint to have committed the crime have, however, no right to participate in the proceedings nor are they entitled to any hearing of any sort whatsoever by the Magistrate until the consideration of the matter by the Magistrate for issuance of process. We answer the question accordingly. The judgments of the High Courts to the contrary are overruled.

In terms of this settled law, the order of revisional Court, dated 06.05.2010, becomes unsustainable being without jurisdiction; resultantly, the consequential order passed by the Magistrate, dated 02.11.2010, summoning the petitioners is also rendered bad in law and unsustainable.

8. In view of the discussion above, the petitions filed by the company officials, CRM-M-1340-2011 and CRM-M-2166-2011, are allowed. Criminal complaint case no.445-1, dated 24.12.2007, titled *Ram Niwas Agrawal v. Narinder Singh Lamba and others*, under Sections 420,



467, 468, 471, 120-B, 218 and 506 of IPC, pending before the Court of Sub Divisional Judicial Magistrate, Hansi, along with all consequential proceedings arising therefrom, including judgment/orders dated 06.05.2010 and 02.11.2010, passed by the Additional Sessions Judge, Hisar, and SDJM, Hansi, respectively, are hereby quashed *qua* the petitioners. The petition filed by the complainant, CRM-M-22825-2012, stands dismissed.

9. A photocopy of this order be placed on the connected files.

(TRIBHUVAN DAHIYA)
JUDGE

11.02.2025
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No