
(2007) 10 P&H CK 0135

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 70598-M of 2006

Jugal Kishore and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 13-10-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2007) 10 P&H CK 0135

Hon'ble Judges : Surya Kant, J

Bench : Single Bench

Advocate : Harminderjeet Singh, for the Appellant; Rajesh Bhardwaj, DAG, Punjab and Mr. K.S. Cheema, Advocate For the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Surya Kant, J.—In this petition u/s 482 Cr.P.C., the Petitioner is primarily aggrieved at the order dated 27th October, 2006 passed by the learned Sessions Judge, Hoshiarpur whereby his revision petition against the order of summoning, has been dismissed.

2. On 13th November, 2006, when this petition came up for preliminary hearing it was contended on behalf of the Petitioners that the revision petition has been dismissed by the learned Sessions Judge solely on the ground that the summoning order is an interlocutory order against which no revision is maintainable.

3. On the other hand, learned Counsel for Respondent No. 2 contends that the learned Sessions Judge has decided the revision petition on merits as well and has dismissed the same after finding no substance therein.

4. I have heard learned Counsel for the parties and perused the impugned order dated 27th October, 2006. On a plain reading of the impugned order, it is apparent that the learned Sessions Judge was of the view that the summoning

order is an "inter-locutory order" and in the light of the Apex Court judgment in K.M. Mathew v. State of Kerala and Anr., 1992 (1) RCR, 232 and some other judgments, it was held that "the revision petition on the face of it is not maintainable". It is thereafter that the learned Sessions Judge has made certain observations on merits as well and has held that in the light of the documentary evidence on record a prima facie case for summoning of the Petitioners was made out.

5. Having heard learned Counsel for the parties, I am of the considered view that the revisional Court was heavily influenced by the fact that a revision petition against the summoning order was not maintainable and it appears that the observations by it in the later part of the impugned order are a passing reference only. It, thus, appears that all the contentions raised on behalf of the Petitioners have not been dealt with while passing the impugned order.

6. Consequently, and for the reasons afore-stated, this petition is allowed to the extent that the impugned order dated 27th October, 2006 is set aside and the learned Sessions Judge is directed to re-decide the Petitioners' revision petition, in accordance with law and as early as possible and preferably within three months.

7. However, the observations made here-in-above shall not be construed as an expression of opinion on merits of the case.

8. The parties, through their counsel, are directed to appear before the learned Sessions Judge, Hoshiarpur, on 19th November, 2007.