
(1983) 02 P&H CK 0025

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 2080-M of 1982

Pargat Singh and anr.

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 21-02-1983

Acts Referred:

Citation : (1983) 1 RCR(Criminal) 336

Hon'ble Judges : Surinder Singh, J

Advocate : H.S. Giani, A.K. Goel, P.S. Mann, Advocates for appearing Parties

Judgement

Surinder Singh, J. (Oral)

1. By means of this petition under section 482, Code of Criminal Procedure, the order dated December 21, 1981, passed by the Judicial Magistrate First Class, Amritsar (Annexure P. 3) is sought to be quashed. It is needless to go into the detailed facts of the case or the merits of the controversy at this stage. A bare perusal of the impugned order reveals that the same is not a speaking order and cannot, therefore, be sustained. Curiously enough the learned Magistrate has, observed in the impugned order as follows :

"... It is also addressed by the learned counsel for the complainant that if at all no prima facie case would be made out after the accused appears in the Court then no charge accordingly be framed, but it is addressed that accused may be summoned in this case and thereafter case may be disposed of on merits."

It is primarily on the basis of the above observation that the learned Magistrate passed the impugned order summoning the two petitioner s Pargat Singh and Jagjit Singh in the complaint filed by Swaran Singh respondent No. 14. The learned Magistrate has indeed observed in the order that "in view of the prima facie evidence on the record, I find that there are sufficient grounds to proceed against the accused under sections 406/420 Indian Penal Code." The learned Magistrate has, however, not adverted at all to any evidence on the record and it is difficult to hold that he did apply his mind to the said evidence. In this view of

the matter, the impugned order is not sustainable and is hereby quashed.

2. The case shall go back to the trial Court for proceeding with the same in accordance with the law from the stage where it stood just before the passing of the impugned order. The parties, through their learned counsel have been directed to appear before the trial Court on March 14, 1983.

3. The present petition is disposed of accordingly.