

**IN THE COURT OF MR. NAVEEN KUMAR KASHYAP,
ADDITIONAL SESSIONS JUDGE-04, CENTRAL DISTRICT
TIS HAZARI COURTS, DELHI**

Unique ID No. : DL CT01-010124-2019
Criminal Revision Number : 465/2019

**Shubhankar Nagar
S/o Lt. Vijender Singh Nagar
R/o 3320, Peepal Mahadeve,
Hauz Qazi, Delhi-110006**

.....Petitioner/ Revisionist

versus

**1. Rajender Singh
S/o Lt. Shri Ramfal
R/o Flat No.-1102, Tower-4,
Parashnath Building,
Greater Noida, Gautambudh
Nagar, Uttar Pradesh**

**2. Munni
W/o Rajender Singh
R/o Flat No.-1102, Tower-4,
Parashnath Building,
Greater Noida, Gautambudh
Nagar, Uttar Pradesh**

**3. Vicky
S/o Rajender Singh
R/o Flat No.-1102, Tower-4,
Parashnath Building,
Greater Noida, Gautambudh
Nagar, Uttar Pradesh**

**4. Raju
S/o Lt. Shri Desh Raj
R/o H.No. 36, Gol Market
Gali Krishan, Hapur,**

Uttar Pradesh.

**6. Azad Singh
S/o Chandu
R/o A-89, Sector-35,
Noida, Gautambudh Nagar,
Uttar Pradesh.**

**7. Kale Kumar
S/o Shri Mishri Lal
R/o 1196, Kucha Pati Ram
Bazar Sita Ram, Delhi.**

**8. S. Sethi
S/o Shri Kailash Narayan Seth,
R/o 4938/40, IIIrd Floor, Fatak
Namak, Hauz Qazi, Delhi.**

**9. B Shah
S/o Shri Jagdish Shah
R/o B-124/27, Shanti Mohalla,
Gali No.10, New Usmanpur,
Gadhi Mandu, Delhi.**

**10. Virender Rawat
S/o Lt. Munshi Rawat
R/o 2850, Gali Peepal Mahadevi,
Hauz Qazi, Delhi-110006.**

.....Respondents

**Revision received by Court : 30/07/2019
Arguments concluded : 06/08/2020
Date of judgment : 24/08/2020**

J U D G M E N T

1. The present Revision has been filed by the revisionist against impugned order in question dated 28/05/2019 passed by learned MM-01 Mr. Fahaduddin, Central District, Tis Hazari Court, Delhi.

2. The notice of the present revision was issued to all the ten respondents and served upon all of them. Further, trial court record was summoned. As per record, no reply has been filed by any of the respondents, but choose to argue orally in detail.

Learned counsel for petitioner / revisionist also addressed arguments. Further, learned counsel for respondents nos.1 to 5 addressed arguments. Learned counsel for respondents no.6 also addressed arguments. Respondents nos. 7 to 10 adopted arguments addressed by respondents nos. 1 to 5.

3. I have heard both the sides and perused the record including trial court record.

4. The Learned Counsel for revisionist / petitioner argued, in nutshell, that present revisionist originally filed a criminal complaint before SHO concerned, but no FIR was registered by the SHO concerned. As such, he preferred application u/s 156(3)Cr.P.C before concerned MM for registration of FIR. Vide order dated 12/05/2016, learned MM was pleased to dismiss the same and instead gave opportunity to the present revisionist to lead pre- summoning evidence u/s 200 Cr.PC as a criminal complaint case. Such order was challenged before revisionist court ,but such revision was also dismissed vide order dated 13/01/2017. Against such order, present revisionist preferred petition u/s 482 Cr.P.C before Hon'ble High Court and the same is pending.

But in the meanwhile, matter was listed before Trial Court and trial court passed the impugned order in question and gave last and final opportunity to the complainant to lead pre-summoning evidence subject to cost of Rs. 2,000/- to be deposited in DLSA.

5. Such impugned order, in nutshell, is challenged on the following ground:-

- That if pre-summoning evidence is recorded by learned MM, then petition before Hon'ble High Court shall become infructuous and cause prejudice to the proceedings before Hon'ble High Court.
- That petitioner is not in a possession of all relevant evidence, documents etc.
- That without registration of FIR, evidence of complainant shall fall short to bring home the guilty of accused persons.
- That revisionist is diligently pursuing his matter before Trial Court.
- That cost of Rs.3,000/- is imposed in arbitrary manner and same is made a pre-condition for leading pre-summoning evidence.

6. As such, it is prayed that impugned order dated 28/05/2019 be set aside.

7. On the other hand, it is argued by the learned counsel for respondents nos. 1 to 5 that impugned order in question is rightly passed by the

Learned Trial Court. Further such order does not take away the right of the present revisionist to lead pre-summoning evidence. That learned Trial Court still gave one last and final opportunity to revisionist to lead pre-summoning evidence subject to certain cost as revisionist was delaying the matter on one ground or the other. More importantly, it is argued that similar relief is sought by the revisionist before the Hon'ble High Court. That present revisionist has not put correct facts before this court.

8. Further, it is argued by learned counsel for respondents no.6 that revisionist is not leading pre-summoning evidence despite opportunity given since 2016. As such, learned Trial Court rightly passed the impugned order in question.

9. It is a matter of record that application for registration of FIR u/s 156(3) Cr.PC is already dismissed by learned Trial Court. Further, at present the matter is pending at the stage of pre-summoning evidence before the learned Trial Court. It is further matter of record that revisionist has already availed his legal remedy against dismissal of application u/s 156(3) Cr.P.C and even such revision is already dismissed and thereafter such issue is pending before the Hon'ble High Court. Further, from record it is clear that at present there is no impediment for the Ld. trial Court to proceed further with the pre-summoning evidence. Further, more than 3 years are already passed since when the matter is pending for pre-summoning evidence.

Further, there are ample provision of law for bringing on record the evidence / material facts which are not in possession or to the access of the complainant, particularly in view of section 202 Cr.P.C. Therefore, revisionist cannot be heard complaining that complete evidence would be difficult to bring on record all the relevant material on record.

Further ,in any case, since the present revisionist has already availed his remedy before learned Revisionist Court earlier and now before Hon'ble High Court, whose order would obviously be binding and followed by all the courts below including the Ld. trial court, therefore, no prejudice can be caused to the present revisionist, if in the meanwhile, matter is proceeded further on merit to lead pre-summoning evidence. On the other hand, if this matter is not proceeded further on merit before learned Trial Court and ultimately no favourable relief is granted in favour of the present revisionist by the Hon'ble High Court then there would be wastage of precious judicial time. Not only that, in the meanwhile with the passage of time, material evidence may wipe out, which would be prejudice to the revisionist only.

Under these facts and circumstances, this revisionist court do not find any infirmity, illegality in the order passed by the learned Trial Court having regard to the stage of the matter before it and facts and circumstances of the present case. As such, no ground is made out to interfere with the same. In fact, learned trial Court correctly passed such order and in fact was gracious

enough, using its discretion rightly, by giving last and final opportunity to the revisionist to lead pre-summoning evidence subject to certain cost.

10. With these observation, the present revision filed by the revisionist is dismissed accordingly. TCR be sent back with copy of the judgment. Revision file be consigned to record room after completion of all other necessary formalities.

**Announced through electronic mode
on 24/08/2020**

**(NAVEEN KUMAR KASHYAP)
ASJ-04/Central/Revision
Court/DELHI/24/08/2020**