IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-38630-M-2005 (O&M)
Reserved on : 31.08.2026
Pronounced on : 09.10.2026

N.P. Singh

..... Petitioner

VERSUS

Ravinder Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Vikas Singh, Sr. Advocate with
Ms. Anamika Sheoran, Advocate for the petitioner.

Mr. Subhash Kaushik, Advocate for the respondent.

*****

SURYA PARTAP SINGH, J.

This is a petition, under Section 482 of Criminal Procedure Code. By virtue of present petition, the petitioner/accused, hereinafter being referred to as 'petitioner' only, has sought the quashing of complaint filed by the respondent/complainant, hereinafter being referred to as 'respondent' only, in the Court of learned Judicial Magistrate First Class Faridabad, hereinafter being referred to as 'trial Court' only.

2. In nut-shell, the facts emerging from record are that alleging the commission of offence punishable under Sections 392/342/323/506 of Indian Penal Code, a complaint was filed before the learned trial Court by the respondent against two persons, including the present petitioner.

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Although by virtue of abovementioned complaint, a request was made by the respondent to exercise jurisdiction, vested in the abovementioned Court, by virtue of Section 156(3) CrPC, for issuing direction to the police to register the FIR against the petitioner and his co-accused, but the learned trial Court instead of issuing a direction to the police for registration of FIR, called upon the respondent to lead preliminary evidence and sought report from the police under Section 202 CrPC. Thereafter, by virtue of order dated 06.11.2003, hereinafter being referred to as 'impugned order' only, observed that a *prima facie* case for summoning of petitioner and his co-accused for the commission of offence punishable under Sections 392/342/323/506 of IPC was made out. Resultantly, by virtue of impugned order, the learned trial Court issued summons to the petitioner and his co-accused and called them upon to face trial for the commission of abovementioned offences.

3. Aggrieved of the abovementioned order, the instant petition has been filed by the petitioner.

4. It has been alleged by the petitioner that the respondent, through a Hire Purchase Agreement dated 27.11.1995, got financed a truck from 'M/s Gujral Financial and Traders', and that the respondent defaulted in the repayment of abovementioned loan and therefore, in view of terms & conditions of abovementioned Hire Purchase Agreement, dated 27.11.1995, the petitioner took over possession of the truck, bearing registration No.HR-47-3012, from the respondent. It has been claimed by the petitioner that the abovementioned process was a legal process, adopted by the petitioner, as

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being a financier the petitioner was recorded as registered owner of the truck, and the status/capacity of the respondent was of hirer only.

5. According to petitioner, by taking over possession of abovementioned truck, no wrong was committed by the petitioner, but on the basis of false allegations, the respondent filed a complaint and the learned trial Court despite an adverse report submitted by the police, in compliance of direction issued by the learned trial Court under Section 202 CrPC, issued process for summoning of the petitioner. While claiming that the impugned order is perverse and contrary to the settled principles of law, the quashing of impugned order, vis-à-vis complaint, has been sought by the petitioner.

6. Heard.

7. It has been contended by learned counsel for the petitioner that instant case is a case of blatant misuse of criminal justice system by the respondent, who despite being a defaulter in repayment of loan, filed a complaint against the petitioner & his co-accused, and procured the summoning order. According to learned counsel for the petitioner, the respondent not only made false averments in his complaint, but also successfully misled the learned trial Court by adducing false preliminary evidence. As per learned counsel for the petitioner, the learned trial Court while passing the impugned order ignored the settled principles of law, and could not appreciate that in view of Hire Purchase Agreement, the truck belonged to the petitioner only and therefore, the petitioner had got an absolute right to take over its possession.

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8. It has been further contended by learned counsel for the petitioner that the averments with regard to illegal or forcible taking over of the possession of the abovementioned truck, are altogether false. With regard to above, it has been contended by learned counsel for the petitioner that at initial stage, when the complaint was filed, the respondent had sought a direction for the police to register FIR, but the learned trial Court declined the abovementioned prayer of the respondent and called upon the respondent to lead preliminary evidence. The learned counsel for the petitioner has further contended that once preliminary evidence was led by the respondent, the learned trial Court sought a report from the concerned police station, by exercising the jurisdiction under Section 202 CrPC. As per learned counsel for the petitioner, in compliance with abovementioned direction, the report was submitted by the SHO Police Station NIT Faridabad, stating therein, *firstly* that the respondent had committed default in repayment of loan and *secondly*, that the allegations with regard to forcible snatching of the truck in SGM Nagar near Sainik Colony Road Faridabad, were false.

9. In view of above, the learned counsel for the petitioner has contended that ample material was available with the learned trial Court to draw an inference that the complaint filed by the respondent was false. According to learned counsel for the petitioner, in such circumstances, instead of issuing process for summoning of the petitioner, the complaint should have been dismissed by the learned trial Court.

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10. In addition to above, the learned counsel for the petitioner has also contended that otherwise also, the complaint was not maintainable in view of the fact that there was a written agreement, i.e. Hire Purchase Agreement, dated 27.11.1995 between the finance company of the petitioner and the respondent, and with regard to dispute of forcible taking over the possession of truck by the abovesaid finance company, the civil suit and civil appeal were filed by the respondent. As per learned counsel for the petitioner, the civil suit, as well as the appeal, did not find favour of the learned trial Court, as well as of the learned First Appellate Court. The learned counsel for the petitioner has further contended that later on, when matter was referred to the Arbitrator, even the Arbitrator passed an award against the respondent for recovery of Rs.2,34,529/-. According to learned counsel for the petitioner, against the abovementioned award, the respondent filed a petition under Section-34 of 'Arbitration & Conciliation Act, 1996', wherein he challenged the abovementioned award, but despite the pendency of abovementioned proceedings, the present complaint was filed. As per learned counsel for the petitioner, once the civil proceedings were already there and the dispute between the parties was a dispute of civil nature, any complaint for the offence under Sections 392/342/323/506 IPC was not maintainable.

11. In view of abovementioned arguments, it has been contended by learned counsel for the petitioner that an error of judgment was committed by the learned trial Court, while believing the unsubstantiated false allegations of the respondent with regard to forcible snatching of his

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truck. As per learned counsel for the petitioner, there was no ground to summon the petitioner as an accused to face trial for the commission of offence punishable under Sections 392/342/323/506 IPC. In view of abovementioned arguments, it has been urged by learned counsel for the petitioner that by accepting the present petition, the impugned order as well as the complaint be quashed.

12. In support of his abovementioned arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Charanjit Singh Chadha V/s Sudhir Mehra' AIR 2001 (SC) 3721. In the abovementioned case, the Hon'ble Supreme Court of India has ruled that in a case, where the accused purchases a vehicle under Hire-Purchase Agreement, on default in payment of installments by the hirer, the owner can take over possession of the vehicle without consent of the hirer. It has been further observed by Hon'ble Supreme Court of India in the abovementioned case, that in such circumstances no offence is made out against the owner of the vehicle.

13. The learned counsel for the petitioner has also referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'M/s Magma Fincorp Ltd. V/s Rajesh Kumar Tiwari' AIR 2020 (SC) 4978. In the abovementioned case, the Hon'ble Supreme Court of India has propounded that when there exists an agreement between financier and the hirer, and the agreement permits financier to take over possession of vehicle financed by the financier, there is no legal impediment to financier taking

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over possession of vehicle. As per Hon'ble Supreme Court of India, when possession of vehicle is taken by the financier, it cannot be said that the financier committed the offence of theft.

14. The abovementioned arguments have been controverted by the learned counsel for the respondent. It has been contended by learned counsel for the respondent that in the present case, which is still at the preliminary stage, the quashing of complaint is being sought by twisting the facts. According to learned counsel for the respondent, in fact the entire loan was repaid by the respondent to the petitioner, but while resorting to a high-handed approach, the petitioner and his agents forcibly took away the truck of the respondent, without giving an opportunity to the respondent to prove that there was no due of the finance company towards the respondent.

15. It has been further contended by learned counsel for the respondent that otherwise also, the summoning order was passed by the learned trial Court on the basis of averments contained in the complaint, and that in the complaint, there were very specific and categorical allegations with regard to commission of robbery, wrongful confinement, causing hurt in an assault and intimidation. According to learned counsel for the respondent, there was no legal provision, which authorized the petitioner or his agents to commit the offence of intimidation, causing simple hurt, wrongful confinement and robbery.

16. With regard to arguments of learned counsel for the petitioner that as per report, submitted by police under Section 202 CrPC, offence

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within the jurisdiction of District Faridabad had not taken place, it has been contended by learned counsel for the respondent that the abovementioned dispute/issue can be determined only on appreciation of evidence to be led, by the respective parties, during the course of trial only. According to learned counsel for the respondent, if the opportunity is given to the respondent to prove that the abovementioned offence was committed within the jurisdiction of District Faridabad, the respondent will prove the same. With regard to above, the learned counsel for the respondent has contended that at this stage, merely on the basis of a report submitted by a police officer, this finding cannot be returned that the Courts at Faridabad were lacking territorial jurisdiction over the issue, or that the incident, as claimed by the respondent, had not taken place.

17. While defending the impugned order, vis-à-vis the complaint, it has been contended by learned counsel for the respondent that appropriate convincing preliminary evidence was adduced by the respondent, in support of allegations contained in the complaint, and that on appreciation of entire material available on record, the learned trial Court arrived at a right conclusion that there was a *prima facie* case for summoning of the petitioner to face trial for the commission of offence punishable under Sections 392/342/323/506 IPC. It has been contended by learned counsel for the respondent that there is no merit in the present petition and therefore, the same deserves dismissal.

18. The record has been perused carefully.

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19. Before discussing the merits of the case, at the very outset, it shall be appropriate to look into the facts, contained in the complaint filed by the respondent. The pith and substance of the abovementioned complaint was that the respondent/complainant was owner of a truck, bearing registration No.HR-47-3012, and for the purchase of abovementioned truck he had raised a loan of Rs.4,40,000/- on 27.12.1995 from the finance company of the petitioner. According to respondent/complainant, as per agreement, the abovementioned loan was to be repaid in monthly installments in a period of three years, and that against the loan amount of Rs.4,40,000/-, the respondent/ complainant paid Rs.6,51,200/- (the entire loan amount plus interest) to the petitioner. The respondent/ complainant had further alleged that as per agreement executed between the parties, the total amount to be repaid by the respondent/complainant was Rs.6,51,200/- only, and thus, on payment of abovementioned amount, along with additional amount of Rs.4000/- (towards delayed payment of installments), nothing was due towards the respondent/complainant. As per respondent/ complainant, despite repayment of entire loan and interest thereupon, on 23.05.2000, when the abovementioned truck was parked near Sainik Colony Road, Sanjay Colony, Faridabad, the petitioner along with his co-accused came there in a car, entered in the cabin of a truck and asked for the keys from the driver of the truck.

20. According to respondent/complainant, when driver of the truck, namely ‘Abdul Wadur’, did not hand over keys of the truck, the petitioner and his co-accused hurled abuses to the above-named driver, slapped him

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and thereafter, forcibly drove the truck towards Delhi. It was also alleged by the respondent/complainant that while driving the abovementioned truck, at Noida round-about the driver of the truck was thrown out of the vehicle.

21. If the abovementioned facts and circumstances of the present case are taken into consideration, it transpires that there were allegations with regard to commission of offence punishable under Sections 342/323/392 etc. of IPC. In order to support the allegations contained in the abovementioned complaint, the respondent before the learned trial Court, had examined himself as PW-1, wherein, he reproduced the abovementioned allegation, on oath.

22. It shall not be out of place to mention here that before issuing process, a report under Section 202 CrPC was called by the learned trial Court from the SHO concerned. In his report, dated 24.09.2003, it was reported by the SHO concerned that possession of the vehicle was not taken-over within the jurisdiction of Police Station NIT Faridabad, and that in fact the possession of the vehicle was taken at Kundli. However, the learned trial Court, while disbelieving the report submitted by SHO concerned, and relying upon the contents of deposition of respondent, recorded as preliminary evidence, issued process by virtue of impugned order.

23. In the light of abovementioned given fact situation, now it has to be determined whether the learned trial Court committed an error of judgment when it disbelieved/ignored the report of the SHO, under Section

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202 CrPC, and passed the impugned order on the basis of statement of respondent, on oath.

24. With regard to abovementioned fact situation, it is relevant to mention here that the learned trial Court was faced with a situation, wherein there was a report by the SHO concerned, whereby it was reported that the incident in question had not taken place within the jurisdiction of District Faridabad, as claimed by the respondent/complainant, and on the other hand there was the statement of respondent/complainant, on oath. In my considered opinion, in the abovementioned given fact situation, in order to avoid miscarriage of justice, the best course available to the learned trial Court was to believe the statement of respondent/complainant, on oath, as there was no convincing evidence to support the contents of report under Section 202 CrPC.

25. Here this fact cannot be ignored that the trial is still at initial stage, wherein the respondent/complainant is yet to be called upon to lead evidence for proving his allegations. At such a stage, without trial and without giving opportunity to the respondent/complainant, to prove allegations against the petitioner, merely on the basis of report of the SHO, the dismissal of complaint could not have taken place. Moreover, the contents of the complaint duly supported with uncontroverted statement, on oath, of respondent/complainant, carried a better probative value than the report submitted by SHO under Section 202 CrPC, which was not supported by any independent and reliable evidence.

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26. In the present case, the thrust of the arguments of learned counsel for the petitioner has been upon the plea that being a financier, on the strength of Hire-Purchase Agreement, the petitioner was entitled to take over possession of the vehicle without consent of the respondent/ complainant. With regard to above, it is relevant to mention here that in a recent judgment in the case of 'Hari Dutta Sharma V/s State of U.P. & Ors.' 2026(4) RCR(Civil) 136, it has been ruled by the Hon'ble Supreme Court of India that repossession of a vehicle financed by a company, must adhere to the procedural safeguards outlined in RBI guidelines and the Indian Contract Act, 1872. The Hon'ble Supreme Court of India has further observed that arbitrary repossession and sale without notice violates Articles 14 and 21 of the Constitution and therefore, the borrower, whose vehicle has been forcibly repossessed by the financier, is entitled to compensation.

27. In view of abovementioned principles of law, one of the relevant questions to be determined during the course of trial in the instant case would be as to whether before taking over possession of the vehicle by the petitioner, the prescribed guidelines were followed by the petitioner or not. On the other hand, since there are allegations against the petitioner and his co-accused that they resorted to criminal activities, the respondent/ complainant has got a right to lead evidence to prove the same. Thus, in my considered opinion, at this preliminary stage when both the parties are yet to lead their respective evidence, any opinion cannot be formed with regard to credibility of allegations, contained in the complaint.

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28. In the present case, another leg of arguments of learned counsel for the petitioner has been that the dispute between the parties was a dispute of civil nature, and that with regard to abovementioned dispute, civil cases were already pending between the parties.

29. Qua abovementioned allegations, it is relevant to mention here that the contents of complaint, vis-à-vis deposition of PW-1, would go to show that there were allegations of use of force for causing hurt, use of filthy language, wrongful confinement and illegal snatching of vehicle. All the abovementioned allegations by any stretch of imagination cannot be said to be the action, for which remedy before a Civil Court is available. In fact, the abovementioned acts, if proved before the learned trial Court, would amount to commission of offence under various provisions of IPC.

30. It is also relevant to mention here that it is settled principle of law that while dealing with a petition, seeking for quashing of complaint/FIR, the Court has to adopt a very conscious approach. With regard to scope and indulgence of this Court for exercising extraordinary jurisdiction, the guiding principles, have been laid down by the Hon'ble Supreme Court of India in the case of 'Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others' 2021 SCC OnlineSC 315. Those guidelines prescribe that:

> "a) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

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b) Courts would not thwart any investigation into the cognizable offences;

c) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

d) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

e) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

f) Criminal proceedings ought not to be scuttled at the initial stage;

g) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

h) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;

i) The functions of the judiciary and the police are complementary, not overlapping;

j) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

k) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

l) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence

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reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

m) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

n) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur and Bhajan Lal, has the jurisdiction to quash the FIR/complaint;

o) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

p) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High

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Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India;

q) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

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r) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied.

31. In addition to above, in the case of 'State of Haryana Vs. Ch. Bhajan Lal', 1991(1) RCR 383, the Hon'ble Supreme Court of India after reviewing large number of cases on the question of quashing of FIR has laid down that the FIR can be quashed in the following circumstances:-

a) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

b) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

c) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

d) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

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e) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

f) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

32. Similarly in the case of 'Sadiq B. Hanchinmani Vs. State of Karnataka', Criminal Appeal No.4728 of 2025**,** the Hon'ble Supreme Court of India has ruled that police investigation should be allowed to proceed unless exceptional circumstances warrant intervention. According to Hon'ble Supreme Court of India the High Court should not interfere with the investigation when allegations in FIR disclose cognizable offences.

33. In the case of 'M/s Balaji Traders Vs. The State of U.P. & Anr.' 2025(3) RCR (Criminal) 175, the Hon'ble Supreme Court of India has ruled that jurisdiction of quashing of FIR should be exercised sparingly in the 'rarest of rare cases'. As per Hon'ble Supreme Court of India allegations in FIR or complaint must be taken at face value and accepted in their entirety to assess whether they disclose a cognizable offence.

34. In the case of 'Muskan Vs. Ishaan Khan (Sataniya)', Criminal

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Appeal No.4752 of 2025, the Hon'ble Supreme Court of India held that the Court should not conduct a mini-trial at the stage of quashing and that quashing of FIR should be an exception and exercised sparingly in rarest of rare cases. The Hon'ble Supreme Court of India has further held that Courts cannot embark upon an enquiry as to the reliability or genuineness of allegations made in the FIR/complaint.

35. Taking into consideration the cumulative effect of the entire discussion, recorded in the foregoing paragraphs, it is hereby held that at the stage when the impugned order was passed by the learned trial Court, except the statement on oath of respondent/complainant and the report under Section 202 CrPC, the learned trial Court was not having any privilege to consider any other material and adjudicate upon the plea, as to whether the offences, alleged in the complaint, were committed by the petitioner or not. In my considered opinion, in the abovementioned situation, a right view was taken by the learned trial Court while calling upon the petitioner to face trial for the commission of abovementioned offence. Since the purpose of trial is to extract truth by giving opportunities to the parties, to prove their respective stands, in my opinion, no prejudice would be caused to the petitioner, if he faces trial before the learned trial Court, where by adducing evidence he can prove that the allegations contained in the complaint are false.

36. As a sequel to abovementioned observation, it is hereby held that at this stage, no ground for quashing of complaint or the impugned order

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is made out. Thus, it is hereby held that the present petition is devoid of merits and deserves dismissal. The same is hereby ***dismissed***, accordingly.

37. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

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Whether speaking / reasoned Yes/~~No~~
Whether Reportable Yes/~~No~~

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