

**Pithi Chaudhary Vs.**

**Pithi Chaudhary Vs.**

**SooperKanoon Citation :** [sooperkanoon.com/1132529](http://sooperkanoon.com/1132529)

**Court :** Punjab and Haryana

**Decided On :** Mar-04-2014

**Appellant :** Pithi Chaudhary

**Judgement :**

CRR No.2797 of 2012 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CrI.

Revision No.2797 of 2012 (O&M) Date of Decision: March 04, 2014.

Pithi Chaudhary .....PETITIONER(s).VERSUS Renuka  
.....RESPONDENT(s).CORAM:- HON'BLE Mr.JUSTICE SURINDER GUPTA  
Present: Mr.S.S.Narula, Advocate for the petitioner (s).Mr.Ranbir Singh, Advocate  
with Mr.Parminder Singh, Advocate for the respondent.

\*\*\*\*\* SURINDER GUPTA, J.(Oral) CRM No.7081 of 2014 Requests for placing  
on record reply by way of affidavit of respondent.

The same is taken on record subject to all just exceptions.

Criminal misc.

application stands disposed of.

CRM No.55033 of 2012 There is delay of 122 days in filing this revision petition.

Vide order dated 15.02.2012, the complaint of the petitioner was dismissed and the accused-respondent was discharged.

In the State case, relating to the same occurrence bearing FIR No.37 dated 08.02.2010 Mehta Sachin 2014.03.11 09:47 I attest to the accuracy and integrity of this document CHANDIGARH CRR No.2797 of 2012 -2- charges were framed against the respondent-accused for the offences punishable under Sections 452, 506, 364 read with Section 511 Indian Penal Code (for short 'IPC') and Section 25 Arms Act, 1959.

Against the order framing charge, a revision was filed by the respondent-accused vide CRR No.1005 of 2012.

The petitioner-complainant remained under the impression that he can challenge the order passed in Criminal Revision No.222 of 2011 dated 15.02.2012 in the revision filed by the respondent.

It was at later stage, his counsel advised him to file a separate revision which resulted in delay of 122 days in filing this petition.

The respondent-accused in her reply has contested the plea taken by the petitioner-complainant, seeking condonation of delay in filing this petition.

I have heard learned counsel for the parties.

It is admitted that with regard to the occurrence subject matter of FIR No.37 dated 08.02.2010 registered at Police Station Taraori, District Karnal, a separate complaint was also filed by the petitioner-complainant in which the respondent was summoned.

The police also presented the challan in FIR No.37 dated 08.02.2010.

Against the order of summoning in complaint case, the respondent had filed revision which was accepted by learned Additional Sessions Judge, Karnal and the complaint was dismissed with the observation that 'same was not maintainable'.

No doubt, when there is delay in seeking the remedy, the Mehta Sachin  
2014.03.11 09:47 I attest to the accuracy and integrity of this document  
CHANDIGARH CRR No.2797 of 2012 -3- party has to explain the reasons for  
such delay.

In this case, petitioner has explained the reasons for delay in filing this petition.

He has not gained any benefit by filing this revision with delay.

Earlier the respondent has filed a revision petition in the State case against the  
order of framing charge which has since been dismissed.

As the petitioner has explained the reasons for delay, it will be in the interest of  
justice to decide the petition on merits.

The instant application, as such, is allowed and the delay of 122 days in filing this  
revision petition, is hereby, condoned.

CrI.

Revision No.2797 of 2012 Vide order dated 15.02.2012, the Court of revision  
dismissed the complaint filed by the petitioner-complainant holding the same as  
not maintainable.

I have heard learned counsel for the parties at length.

The occurrence allegedly took place on 08.02.2010 and the FIR bearing No.37  
dated 08.02.2010 for the offences under Sections 364, 452, 506 IPC and Section  
25 of Arms Act, 1959 was registered at Police Station Taraori, District Karnal  
against the respondent.

As the police had taken no action in the FIR, the petitioner- complainant filed a  
private complaint in which after recording preliminary evidence, the respondent-  
accused was summoned to face trial vide order dated 02.11.2011.

The detail facts of the complaint are not required to be discussed as the matter in  
issue in this petition is limited to the extent, as to whether the complaint filed by the

petitioner-complainant Mehta Sachin 2014.03.11 09:47 I attest to the accuracy and integrity of this document CHANDIGARH CRR No.2797 of 2012 -4- regarding the occurrence for which FIR has been registered, was maintainable.

Learned counsel for the petitioner-complainant has argued that complaint and the police challan pertain to the same accused and the same occurrence, as such, under Section 210 (2) of the Code of Criminal Procedure (for short 'Cr.P.C.') these were to be clubbed.

The order of the Court of revision that the complaint is not maintainable as the police has filed the challan, is not sustainable.

On the other hand, learned counsel for the respondent has argued that under Section 210(1) Cr.P.C., when the inquiry was going on in the police challan, the Magistrate where the complaint is pending, was duty bound to stay the proceedings and call for the report in the matter from the police officer conducting the investigation.

In this case, the Magistrate has not done so.

As such, the complaint has been rightly dismissed by the revisional Court.

The trial in case bearing FIR No.37 dated 08.02.2010 is pending.

As per provisions of Section 210(2) Cr.P.C.if the police submits a report under Section 173 Cr.P.C.and on such a report, cognizance of any offence is taken against any person who is an accused in a complaint case, in that eventuality, the Court shall try the complaint case and the case arising out of the police report together.

The Magistrate had committed the complaint case to the Court of Sessions along with the police case.

The Court of revision should have directed for tagging the Mehta Sachin 2014.03.11 09:47 I attest to the accuracy and integrity of this document CHANDIGARH CRR No.2797 of 2012 -5- complaint with the State case for trial instead of dismissing the complaint as not maintainable.

There is no provision under Section 210 Cr.P.C.that if with regard to the same occurrence, the police submits a report on which cognizance is taken, the complaint, if any, already filed, shall be dismissed as not maintainable.

The order dated 15.02.2012 passed by the Court of revision, is not sustainable under law and is set aside.

The complaint case be tagged with the State case bearing FIR No.37 dated 08.02.2010 under Sections 364, 452, 506 IPC and Section 25 of Arms Act, 1959 registered at Police Station Taraori, District Karnal and the trial Court will proceed further in the matter as per the provisions of Section 210 Cr.P.C.Disposed of accordingly.

( SURINDER GUPTA ) March 04, 2014.

JUDGE Sachin M.

Mehta Sachin 2014.03.11 09:47 I attest to the accuracy and integrity of this document CHANDIGARH

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**