

JUDGMENT SHEET
LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Criminal Misc. No.43746-M of 2023
(Muhammad Akbar Ali v. ASJ & others)

JUDGMENT

Date of Hearing	01.12.2023
Petitioner by	Mr. Imtiaz Ashiq Rasool, Advocate.
Respondents No.2 & 3 by	Respondents No.2 & 3 in person.
State by	Ms. Rashida Parveen, Assistant District Public Prosecutor with Khadim Hussain SI.

Syed Shahbaz Ali Rizvi, J: Through this petition, petitioner assails the order dated 05.05.2023, passed by the learned Additional Sessions Judge, Zafarwal, upon criminal revision instituted by respondents No.2 & 3 by virtue of which the order passed by the learned Magistrate regarding the summoning of respondents No.2 & 3 in connection with a private complaint, instituted by the present petitioner stands set aside.

2. Heard. Record perused.
3. Perusal of the summoning order dated 02.07.2021, passed by learned Magistrate Section 30, Zafarwal reveals that subject complaint carries allegation against the respondents with regard to the perpetration of offences punishable under sections 452, 506 (ii) PPC read with section 34 PPC. The cursory statements of the witnesses recorded and the documents produced during the preliminary inquiry under section

202 Cr.P.C prima facie, support the narration available in the private complaint. There remains no doubt about the proposition that for the purpose of issuance of process to the accused under section 204 Cr.P.C, evidence sufficient to establish guilt of the accused is not required, the learned Court is desired by Law only to look for the availability of sufficient ground to proceed further with the complaint that requires tentative assessment of the evidence at hand till then only and sufficiency or insufficiency of the evidence available for the issuance of process is for the Court seized with the matter to decide. The Court even is not required to state detailed reasons in support of its order. Perusal of the order, passed by the learned Revisional Court impugned through this petition reveals that the learned Additional Sessions Judge has travelled beyond his limit while considering the earlier registration of an F.I.R No. 90/2018 at the instance of the accused/respondent No.2 that was not the part of the record before the learned summoning court when the order under revision was passed. The appropriate course for the accused/respondents in the situation was to approach the learned trial Court by moving application under section 249-A Cr.P.C if they consider that in view of the facts with them, there was no chance of their conviction and that further proceedings in the trial would be a futile exercise. It is also relevant to mention here that the summoning order passed under section 204 Cr.P.C is not a judgment or final order as contemplated by section 369 Cr.P.C and the same can be reconsidered, revisited or recalled at any stage. Similarly, the

learned revisional court while determining the propriety or legality of the subject summoning order could only look into the material or evidence available to the learned court below when the order was passed and not beyond. This Court is of the opinion that the reasons given by the learned Magistrate were sufficient to justify the issuance of process under section 204 Cr.P.C, hence, this petition is allowed and the order passed by the learned Additional Sessions Judge challenged by the petitioner/complainant is set aside. The learned trial Court shall proceed further with the private complaint instituted by the petitioner/complainant in accordance with law.

Signed on 12.12.2023.

(Syed Shahbaz Ali Rizvi)
Judge

Approved for reporting.

Judge