

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-16987 of 2014
Date of decision: March 31, 2016.

Mohd. Izhar Alam

... **Petitioner**

v.

State of Punjab and Jagdish Mittar

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Ghulam Nabi Malik, Advocate for the petitioner.
Mr. Ashish Sanghi, DAG, Punjab for respondent No.1.
Mr. Vinay Puri, Advocate for respondent No.2.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

The petitioner Mohd. Izhar Alam, a former IPS officer, seeks quashing of the complaint bearing No.188/1/2011 dated 27.10.2008 (Jagdish Mittar v/s Shiv Kumar Mistri and others) (Annexure P-1) filed under Sections 405, 407, 420, 463, 464, 465, 466, 467, 468 and 120-B IPC, along with the summoning order dated 7.5.2012 (Annexure P-2) passed by Judicial Magistrate First Class, Jalandhar along with all the consequential proceedings qua him.

Heard.

A perusal of the complaint shows that the complaint was filed on 27.10.2008. All the accused were mentioned by name except accused No.2 (Petitioner), who was mentioned as the Chairman, Punjab Wakf Board (in short the Board). The allegations are that in the year 2006, a lease deed was executed by accused No.2 to 5 without any authority. The learned Magistrate summoned all the accused. The offence was

committed in the year 2006. The name of the then Chairman of the Board was not mentioned when the summons were issued and sought to be served. The present petitioner has become Chairman of the Board on 4.1.2010 after his retirement from government service in the year 2009.

I am of the view that the present petitioner is not liable for the offence which is alleged to have been committed in the year 2006 when he was not the Chairman of the Punjab Wakf Board. Therefore, the Magistrate has erred in summoning the petitioner. The crime is always committed in person and the person whosoever is holding the post cannot be summoned for the wrong done by the person who was earlier holding the post. As such, the summoning order qua the present petitioner as Chairman of the Board stands quashed. However, the complaint against remaining accused may proceed in accordance with law.

The petition stands allowed accordingly.

March 31, 2016.
kadyan

[Kuldip Singh]
Judge