

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 2145 OF 2009
[arising out of SLP(CRL.) No. 5077 of 2007]**

BINDU & ORS. APPELLANTS

VERSUS

SURESH KUMAR & ANR. RESPONDENTS

O R D E R

Leave granted.

A charge had been framed against the appellants for offences punishable under Section 332/353 read with section 34 of IPC by the Magistrate vide order dated 30th September, 2007. This order was set aside by the Additional Sessions Judge, Hisar by order dated 27th February, 2007. This order was challenged by the complainant in the High Court. The High Court has set aside the order dated 27th February, 2007 without even a notice to the accused by the impugned order dated 17th July, 2007 and a direction has been issued to the Judicial Magistrate, Hansi to rehear the parties and pass fresh order "regarding framing or not framing charge". We are of the opinion that this order is clearly unsustainable for the reason that it was made without notice to the accused. The order dated 17th July, 2007 is accordingly set aside and the matter is remitted to the High Court for a fresh decision in accordance with law.

The appeal is allowed in the aforesaid terms.

.....J
[HARJIT SINGH BEDI]

.....J
[J.M. PANCHAL]

NEW DELHI
NOVEMBER 06, 2009.

