

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRM No.M-27354 of 2015

Smt.Saroj

...Petitioner

Versus

Rajender Singh and another

...Respondents

(2)

CRM No.M-27448 of 2015

Smt.Saroj

...Petitioner

Versus

Rajender Singh and another

...Respondents

Date of Decision: August 18, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.D.S.Hooda, Advocate
for the petitioner.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together being arisen from judgment dated 18.05.2015 passed by learned Addl. Sessions Judge, Rohtak vide which the revision filed by the present petitioner against the order dated 31.10.2013 passed by learned JMIC, Rohtak, was dismissed and the revision filed by respondent No.1 Inspector Rajender Singh against the above-said order was allowed.

I have learned counsel for the petitioner and have gone through the record.

As per the prosecution version, Smt.Saroj filed a complaint against Vijay and SI Rajender Singh, the then SHO before learned JMIC, Rohtak, with the averments that Pardeep, elder son of the complainant used to do business in the sale-purchase of vehicles. Pardeep has sold one car to accused Vijay, however, he did not pay the full consideration and an amount of ₹3,50,000/- was outstanding towards Vijay. Vijay had a good friendship with SI/SHO Rajender Singh and once Vijay had threatened Pardeep to get him falsely implicated in some criminal case. One day, Vijay came to the house of the complainant and promised to pay the amount i.e. sale consideration of the car till the evening of 17.01.2007. On 17.01.2007, at about 7/7.30 P.M., Pardeep went to meet Vijay but he never returned back. On 18.01.2007, while Rakesh and Dharampal were searching for Pardeep, they received an information regarding dead body lying on Jhajjar road and they identified the dead body as that of Pardeep having injury on mouth, head, ear and chest. The blood had spilled on the road. FIR No.15 dated 18.01.2007 under Section 302 IPC was registered. Post mortem was got conducted on the dead body. After registration of the case, police reached the spot, prepared site plan and lifted blood-stained earth. SI Rajender Singh, called Vijay in the police station but instead of arresting him and interrogating him, he was kept in the police station for two days. During investigation, Vijay admitted his involvement in the murder of

Pardeep but he was allowed to go.

In the complaint, Inspector Rajender Singh was summoned under Section 166 IPC vide order dated 31.10.2013.

Aggrieved from the above-said order, Inspector Rajender Singh filed revision petition. The complainant also filed revision petition against the summoning order as Inspector Rajender Singh was not summoned in other Sections before learned Sessions Court. Learned Addl. Sessions Judge, Rohtak, by discussing the law, held that sanction under Section 197 Cr.P.C. is necessary because SI/SHO Rajender Singh is a public servant and if he is to be prosecuted for an offence which has been committed by him while acting or purporting to act in discharge of his official duty then prior sanction is necessary. In the present case, admittedly, no sanction has been given by the State Government under Section 197(3) Cr.P.C. The State Government has power to determine the person by whom and the manner in which and the offences for which the prosecution of a public servant is to be conducted. Haryana Government has also published a notification dated 25.07.1980, according to which, it is necessary to seek sanction to prosecute an enrolled police official from the rank of Constable to Inspector involved in a criminal case. Admittedly no sanction has been obtained by the complainant before prosecuting Inspector Rajender Singh. From the allegations in the complaint, it is clear that accused has acted in discharge of his official duty.

From the above discussion, I find that the impugned

judgment dated 18.05.2015 passed by learned Addl. Sessions Judge, Rohtak is correct, as per law and do not require any interference from this Court and the same is upheld.

Therefore, finding no merit in both the cases, the same are dismissed.

August 18 , 2015
Vgulati

(INDERJIT SINGH)
JUDGE