

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-33154 of 2014(O&M)

Date of decision: 23.02.2015

Manjit

.....Petitioner

versus

Smt.Kalawati and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Dr.Surya Parkash, Advocate for the petitioner
Mr.Satish Saini, DAG Haryana
Mr.Saurabh Bhardwaj, Advocate for the complainant

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

Kuldip Singh, J.

Short reply on behalf of respondent No.1 filed in Court is taken on record.

The petitioners in this petition filed under Section 482 Cr.P.C. seek for quashing of complaint dated 22.11.2011 (Annexure P1) under Sections 328, 302 read with Section 34 IPC, Police Station Kurukshetra and the summoning order dated 10.12.2013 (Annexure P2).

Brief facts of the case are that Smt.Kalawati filed a criminal complaint in which she stated that her son Satish Kumar was studying in B. Tech. course and was living in rented house No.680, Sector 13, Kurukshetra along with the accused Nos.3 and 4 (Vikram Singh and Manjeet) (present petitioners). Satish Kumar had told

husband of the complainant on telephone that accused Nos.3 and 4 always quarrell with him so he wants to live separately. On 28.6.2009, at about 8.16 pm, Vikram Singh gave a call on the mobile phone of the husband of the complainant, on which her husband enquired about the health of his son Satish Kumar, on which, he replied that Satish Kumar has gone to market and will come back in a few minutes. Later on, her husband gave call on the mobile phone of his son, on which, Vikram Singh told that he had drowned in the river. When husband of the complainant asked for reason of drowning, Vikram Singh disconnected the mobile phone. Thereafter also, mobile phone of Satish Kumar was used by Vikram Singh and Manjit. Vikram Singh and Manjit neither informed the police nor the college authorities regarding the said incident.

Initially, DDR was recorded, in which, husband of the complainant did not mention name of any accused as he did not know about the same. Proceedings under Section 174 Cr.P.C. were conducted and it was found that the deceased Satish Kumar had sustained multiple injuries on his person. Subsequently, husband of the complainant came to know that on 28.6.2009 accused had taken Satish Kumar for bathing in the river / canal wherein in furtherance of their common intention, they gave beatings to him and after intoxicating him, threw him in river. The body of Satish Kumar was recovered and sent for post mortem examination on 1.7.2009, wherein multiple abrasions on various parts of the body, namely, hands, knees, ears, forehead and toes were found. On careful examination of the photograph of dead body, two frontal teeth were

found broken and there was strangulation mark on the neck of the deceased. As per report of FSL, organophosphorus pesticide and ethyl alcohol was detected in the viscera. On the receipt of the complaint, FIR No.199 dated 23.9.2009 under Sections 328, 302 read with Section 34 IPC was registered at police station Kurukshetra. Re-examination of Vikram Singh was also done. But the local police of Kurukshetra did not initiate any legal proceedings against the accused.

Learned Judicial Magistrate 1st Class, Kurukshetra, after recording the preliminary evidence, passed the summoning order dated 10.12.2013.

I have heard learned counsel for the parties and have also carefully gone through the file.

The learned Judicial Magistrate 1st Class has passed a well reasoned order. Injuries on the person of the deceased were duly discussed. The medical evidence as well as statement of the complainant was also discussed. The learned Magistrate also examined the case law on the point. In the complaint case, if the Magistrate find that there are sufficient grounds to proceed against the accused, summoning order is to be passed.

Learned counsel for the petitioner has argued that in this case, police had registered FIR No.199 dated 23.9.2009 under Sections 328, 302 read with Section 34 IPC and that during investigation, it was found that the petitioners have not committed the offence. It is further stated that the Hon'ble High Court vide order dated 18.11.2010, passed in CRM M 1948 of 2010, transferred the

investigation to Chandigarh police by issuing direction to Inspector General of Police to constitute two senior officers for investigation. Chandigarh police also conducted the investigation and report (Annexure P5) shows that after investigation, it was found that no foul play is found in the death of Satish Kumar. Therefore, it is stated that the present proceedings are nothing but misuse of process of the Court.

I am of the view that reasoning given by investigating officer is not acceptable to the complainant. The complainant has led the evidence before the trial Court. The trial Court has examined the entire evidence and found sufficient grounds to proceed against the accused. The mere fact that in the inquiry by police, the petitioners were found innocent, does not mean that the inquiry is gospel truth. At the most, same can be used in defence to controvert the evidence led by the petitioners. The order passed by the learned Magistrate is well reasoned. I do not find any ground to interfere in the said order. There is also no ground to quash the complaint.

The petition is accordingly dismissed.

23.02.2015
gk

(Kuldip Singh)
Judge