

CRM-M-39146-2015 and
CRM-M-41908-2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: December 18, 2015

1. CRM-M-39146-2015

Mahindro Devi

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-41908-2015

Sube Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. V.K. Jindal, Senior Advocate, with
Mr. Amardeep Sheoran, Advocate, and
Mr. Neeraj Yadav, Advocate,
for the petitioner (in CRM-M-41908-2015).

Mr. Sandeep Gahlawat, Advocate,
for the petitioner (in CRM-M-39146-2015)

Mr. Kuldeep Tiwari, Addl. AG, Haryana,
for the respondent.

Mr. Rakesh Gupta, Advocate,
for the informant.

1. *Whether Reporters of local papers 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?*

NARESH KUMAR SANGHI, J (Oral)

This order shall dispose of CRM-M-39146-2015, filed under Section 439, Cr.P.C., by Mahindro Devi, wife of Rajpal, and CRM-M-41908-2015, filed under Section 438, Cr.P.C., by Sube Singh, son of Multan Singh, both residents of village Jamba, Police Station, Pundri, District Kaithal, since both the cases have arisen out of FIR No. 15, dated 11.1.2015, for the offences punishable under Sections 148 and 302 read with Sections 34 and 149, IPC, registered at Police Station, Pundri, District Kaithal.

The complete copy of the paper book of CRM-M-41908-2015 (Sube Singh v. State of Haryana) has been supplied to learned counsel for the State in the Court. Learned counsel for the parties are agreeable that both these petitions can be disposed of together by this common order since the police file has been brought by ASI Mahi Pal of Police Station, Pundri, District Kaithal.

Mr. V.K. Jindal, learned senior counsel representing Sube Singh, submits that during investigation, the allegations

levelled against him (Sube Singh) were found to be false and, as such, the charge-sheet (challan) was presented qua his three co-accused only. He further submits that during investigation it was found that at the time and date of occurrence, the location of the mobile phone of the petitioner, Sube Singh, was of Uttar Pradesh and, as such, he was not present in the jurisdiction of Police Station, Pundri, which is far away from the State of Uttar Pradesh. He further submits that three more persons, who have been charge-sheeted, were attributed the injuries on the person of Rajeev (since deceased) and just to widen the array of the accused, the petitioner, Sube Singh, was implicated in the present case.

Mr. Sandeep Gahlawat, learned counsel representing Mahindro Devi, submits that at the time of lodging of the FIR it was alleged by Vidya Devi, informant, that Mahindro Devi was armed with a *Tukwa*, but later on she (Vidya Devi) changed her statement before police and stated that she (Mahindro Devi) was armed with a wooden log (*Binda*). He further points out that during her deposition before the Court, Vidya Devi, informant, deposed that the petitioner, Mahindro Devi, was armed with a

Tukwa. The police had recovered a *Binda* from Mahindro Devi, which was neither smeared with the blood nor it was shown to the doctor to express his opinion that the injuries on the person of Rajeev (since deceased) could be caused by the said weapon. It has also been pointed out that the petitioner, Mahindro Devi, is 35-year old woman and except her, there is no female member in her family to maintain her minor children and look after the household. In support of his contention, learned counsel has placed reliance on **Bimla v. State of Haryana, 2000 (1) R.C.R. (Criminal) 433**, where it was held that young lady involved in a murder case alongwith her husband and brother-in-law can be granted bail to look after her minor children.

Learned counsel for the State, assisted by Mr. Rakesh Gupta, counsel for the informant, Vidya Devi, has vehemently opposed grant of bail to the petitioners, Sube Singh and Mahindro Devi. It was averred that both the petitioners were specifically named and specific role has been assigned to both of them.

Learned counsel for the State, however, fairly concedes that during investigation the allegations levelled

against the petitioner, Sube Singh, were found to be false and, as such, he was declared innocent and placed in Column No. 2 while filing the charge-sheet. He further fairly concedes that *Binda* alleged to have been recovered at the instance of Mahindro Devi was neither blood sustained nor was shown to the doctor. However, he submits that since Mahindro Devi was arrested after about four months of the occurrence and, as such, she might have tampered with the weapon used for causing injuries or the blood from the weapon might have evaporated.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Since the initial allegation against Mahindro Devi was that she was armed with a *Tukwa* and caused injuries on the person of Rajeev (since deceased), but later that version was changed and it was alleged that she (Mahindro Devi) was armed with a *Binda* (wooden log). After arrest of Mahindro Devi, the said *Binda* was recovered from her, but the blood was not detected by the Serologist of the Forensic Science Laboratory, Madhuban. The said weapon of offence was not presented before the doctor

to express opinion that the injuries on the person of Rajeev (since deceased) were caused by using the said weapon.

It is also an admitted position that Mahindro Devi is aged about 35-year and there are young children at her house and except her there is no lady in her family.

So far as the anticipatory bail to Sube Singh is concerned, it is also an admitted position that during investigation it has emerged on record that at the time of occurrence on 10.1.2015, his (Sube Singh) mobile location was showing his presence in Uttar Pradesh.

Keeping in view totality of the facts and circumstances of the case, Mahindro Devi wife of Rajpal, is ordered to be released on bail during pendency of the trial of the present case, subject to her furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Kaithal.

In the event of appearance of Sube Singh son of Multan Singh before learned Trial Court on or before the date fixed, he shall be admitted to bail subject to his furnishing bail bonds to its satisfaction.

Both the petitions are allowed in the above terms.

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Whatever has been observed here-in-above, is for the limited purpose of deciding present petitions.

A copy of this order be placed on the file of CRM-M-41908 of 2015.

(NARESH KUMAR SANGHI)
JUDGE

December 18, 2015
P Kapoor