

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-13850 of 2016.
Decided on:-30.09.2016.

Pooja Devi.

.....Petitioner.

Versus

Ragubir Chand and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. M.S. Saini, Advocate for
Mr. Ritesh Pandey, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of order dated 11.4.2012 passed by learned Sub-Divisional Judicial Magistrate, Pathankot, whereby the complaint under Sections 302, 148 and 149 IPC related to Police Station Sadar Pathankot filed by the petitioner-complainant against the respondents-accused was dismissed. Challenge has also been laid to the judgment dated 18.9.2014 passed by learned Sessions Judge, Pathankot vide which the revision petition filed by the petitioner against the order passed by learned Magistrate, was dismissed.

Learned counsel for the petitioner contends that though there was sufficient material available on record, but the Courts below did not consider the claim of petitioner-complainant. He further states that the impugned orders passed by the Courts below are contrary to law and facts of

the case. He prays for setting aside of the impugned orders and summoning of the respondents-accused accordingly.

I have heard learned counsel for the petitioner.

Briefly stated, the petitioner has filed a complaint alleging therein that on 2.12.2004 at about 7.30 p.m., her husband Ashwani Kumar left for Pathankot along with Maruti car bearing registration No.PB-10G-3535 for his work. But he did not return till late evening. Accordingly, the complainant along with other family members i.e. Tarsem Lal son of Dawan Chand searched for deceased Ashwani Kumar. However, when the complainant and the father of deceased reached Kothi Pandtan, they were informed by Vicky, Murty and Ram Lubhaya that they had seen the deceased along with accused persons (respondents herein) going towards Dhangu Peer. However, due to darkness, the complainant returned to her house and on 3.12.2004 at about 7.30 p.m., when the complainant was present in her house, she was informed by Vicky son of Sita Ram of Kothi Pandtan that the accused had brought Ashwani Kumar in a three-wheeler No.1975 and threw him beyond the bushes. Thereafter, the complainant along with Tarsem Lal and Ram Lubhaya went there and saw Ashwani Kumar lying there.

The complainant has relied upon statements of Tarsem Lal CW1, Ram Lubhaya CW2, Pooja Devi CW3 and Dr. Ashok Kumar, but the Courts below found that the statements of these witnesses are not only vague, rather, contradictory. It is the case of the complainant that Vicky has informed all the complainant witnesses Ashwani Kumar son of Tarsem Lal

was lying in semi-conscious condition and he had brought him to home in the three-wheeler. However, said Vicky has not been examined by the complainant despite the fact that he had brought to the notice of the complainant that he had brought deceased Ashwani Kumar in his three-wheeler. Further, statement of Tarsem Lal CW1 is also contradictory to his earlier statement made to the police. While making statement before the police, Tarsem Lal CW1 has earlier deposed that his son had consumed some poisonous substance and died. Accordingly, the proceedings under Section 174 Cr.PC were initiated by the police. Thus, there is total contradiction in the statements of witnesses of the complainant. Vicky who was an important witnesses has not been examined by the complainant.

In view of the above, this Court does not find any illegality in the impugned order dated 11.4.2012 passed by learned Sub-Divisional Magistrate, Pathankot as well as judgment dated 18.9.2014 passed by learned Sessions Judge, Pathankot.

Accordingly, the present petition, being devoid of any merit, is dismissed.

September 30, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No