

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-7036 of 2016(O&M)
Date of Decision: April 22, 2016

Karamjit Kaur

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.K.Walia, Advocate
for the petitioner.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

None for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for quashing of order dated 19.11.2015 passed by learned Addl. Sessions Judge, Mansa whereby the application under Section 311 Cr.P.C. filed by the petitioner-complainant was dismissed.

Notice of motion was issued and learned State counsel appeared and contested the petition. However, none appeared on behalf of respondents No.2 and 3 despite service.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record.

From the record, I find that an application under Section 311 Cr.P.C. for summoning relevant/material record before examining the prosecution witnesses was filed by the prosecution through learned Addl. Public Prosecutor. Learned Addl. Sessions Judge, Mansa, vide impugned order dated 19.11.2015 dismissed the application at that stage by stating that if the Court will find during trial that this record should be summoned, then the Court can pass order in this regard at relevant time. It is also stated that the record mentioned in the application is not necessary for proper adjudication of the case.

Further, I find that FIR in the present case has been got registered by Karamjeet Kaur present petitioner wife of Bahadar Singh under Sections 306, 506, 148 and 149 IPC. Bahadar Singh had committed suicide. The petitioner-complainant filed the application for summoning the concerned record keeper of the Court of SDJM, Sardulgarh along with application dated 11.08.2014 moved by deceased Bahadar to that Court and that Court called the remarks of SI Krishan Kumar dated 13.08.2014 and in this connection, order dated 26.08.2014 passed by SDJM, Sardulgarh. In the application it is also requested to summon concerned Ahlmad/record keeper of the Sessions Court Mansa along with bail application under Section 438 Cr.P.C. dated 04.09.2014 jointly submitted by deceased Bahadar Singh, his son Gurpreet Singh and Karamjit Kaur and relevant order passed by the Sessions Judge on the application. The petitioner-complainant also wanted to summon peshi clerk of the office of SSP,

Mansa along with original complaint dated 12.08.2014 presented to SSP, Mansa by Karamjit Kaur and other applications dated 29.11.2014 moved by her and application dated 25.04.2015 moved by her son Gurpreet Singh. It is also in the application that Sub Inspector Krishan Kumar was named as an accused, who conspired with other co-accused and harassed, tortured, beaten and confined Bahadar Singh deceased for giving four acres of land and cash to Dalip Kaur co-accused. It is further in the application that under such continuing various threats, Bahadar Singh committed suicide but the challan is presented only against Balwinder Singh and Shinder Kaur and remaining three accused namely SI Krishan Kumar, Dalip Kaur and Satpal Singh are not arrested or challaned by the police.

Keeping in view the above facts as stated in the application, I find that the evidence which the complainant-petitioner wants to produce is essential and necessary for the just decision of the case. The complainant while appearing in the witness box is to prove those applications/complaints given by her, by her son and her deceased husband Bahadar Singh. It is argued that those applications will show the harassment meted out to Bahadar Singh and will prove the abetment to commit suicide.

In view of the above, I find that the record, which the petitioner-complainant wants to summon is necessary and essential for the just decision of the case and dismissal of the application by learned Addl. Sessions Judge, Mansa is not as per law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. The impugned order dated 19.11.2015 passed by learned Addl. Sessions Judge, Mansa is set aside. The application under Section 311 Cr.P.C. filed by the petitioner-complainant is allowed.

April 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE