

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

**Crl. Misc. No.M-31320 of 2017
Date of Decision: 20.09.2017**

Sarvinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

LISA GILL, J(Oral).

Prayer in this petition is for quashing of order dated 08.08.2017, passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner's application under Section 173 (8) of the Code of Criminal Procedure, 1973 (for short-'Cr.P.C.'), for further investigation in the matter has been dismissed.

FIR No. 22 dated 26.02.2017, under Sections 306, 34 IPC, Police Station Moti Nagar, District Ludhiana was registered at the instance of the petitioner. Petitioner's sister-in-law is alleged to have committed suicide on account of harassment meted out to her by the accused persons i.e. respondents no. 3 to 5. As per the averments in the FIR, the petitioner's sister-in-law was married 13/14 years prior to the incident in question with accused-Gurdev Singh (respondent no.3). Two daughters were born out of this wedlock. It is alleged that the petitioner's daughter-in-law was subjected to ill-treatment and harassment by her in-laws as they wanted a male child.

Nothing was handed over to the deceased for her personal expenses. Various

Panchayats in this respect had been convened and the matter compromised. The petitioner's wife (sister of the deceased) received a phone call on 25.02.2017 at about 12.30 p.m. from the petitioner's sister-in-law stating that her mother-in-law and sister-in-law were harassing her on the asking of her husband. After some time, a call was received informing that the petitioner's sister-in-law had committed suicide by hanging herself from a fan. It was stated that the petitioner's sister-in-law committed suicide on account of harassment caused to her by her husband, mother-in-law and sister-in-law. The above said FIR was registered on the basis of this statement.

The Investigating Agency, after completion of investigation, presented the final report under Section 173 Cr.P.C., against respondents no.3 to 5 for the offences punishable under Section 306/34 IPC.

An application under Section 173 (8) Cr.P.C. (Annexure P-4) was filed by the petitioner seeking directions for further investigation by another Investigating Officer. As per averments in the application proper investigation was not carried out. The detailed statements of the complainant, his mother-in-law Rajwant Kaur (mother of deceased) and others were not noted down. Their statements were recorded in haste on 26.02.2017, when the complainant and his family had just seen the dead body of the petitioner's sister-in-law. The petitioner in the application stated that he had requested the police to record his detailed statement as well as that of the mother of the deceased because the earlier statements were recorded in haste, immediately on the petitioner and his family seeing the dead body of his sister-in-law. It is stated that the possibility of an unnatural death at the hands of the accused cannot be ruled out in this case. Allegations of connivance and collusion of the Investigating Officer with the accused have been raised. In this view of the matter, further investigation

was sought.

It is not in dispute that cause of death in this case is asphyxia due to hanging.

Learned Judicial Magistrate Ist Class, Ludhiana, dismissed the application under Section 173 (8) Cr.P.C., while observing as under:-

“In the case at hand, the application has been filed by the complainant himself and the same is neither filed by the investigating agency nor forwarded by the Public Prosecutor. Further there is nothing in the application that any fresh facts having bearing on the case have come into notice after filing of the charge sheet by the police. The only grievance of the complainant is that investigating officer has not recorded his as well as other witness’s detailed statement and the same can be redressed by their testimonies before the Court during the trial. In view of the above discussion, this Court is of the opinion that as the complainant has no locus standi to seek directions for further investigation under Section 173 (8) Cr.P.C., which, at this stage, is the sole prerogative of the investigating agency and no fresh facts having bearing on the case have arisen after the filing of the charge sheet by the investigating agency in the court, the instant application filed by the complainant u/s 173(8) Cr.P.C is not maintainable and the same stands dismissed and disposed off in the interest of justice.”

Judgment of Hon'ble Supreme Court in **Amrutbhai Shambhubhai Patel Vs. Sumanbhai Kantibhai Patel, 2017(1) RCR (Criminal) 1030** was relied upon by the learned trial Court.

Learned counsel for the petitioner submits that the decision of the Hon'ble Supreme Court in **Amrutbhai Shambhubhai Patel's case (Supra)**, is not applicable in the present facts and circumstances of the case.

It is submitted that as the matter is triable by the Court of Sessions, it cannot be said that cognizance in this case has been taken.

However, it is not denied that no fresh facts have come to notice after filing of the challan/police report under Section 173 Cr.P.C. Sole grievance raised by the petitioner is that of the Investigating Officer not recording the complete and proper statements of the complainant and others. It is clearly and rightly mentioned in the impugned order dated 08.08.2017 that the above said grievance can be redressed while recording of their testimonies before the learned trial Court.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 08.08.2017 passed by the learned Judicial Magistrate Ist Class, Ludhiana, which calls for interference by this Court in exercise of jurisdiction under Section 482 Cr.P.C.

Accordingly, this petition is dismissed.

20.09.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No