

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

CRR-3238-2015(O&M)

Date of decision: 30.11.2017

Jaspreet Singh and another

...Petitioners

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.G.S. Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate, Advocate
for the petitioners.

Mr.Kirat Singh Sidhu, DAG, Punjab.

H.S. MADAAN, J.

This revision petition has been filed challenging the order dated 11.8.2015 vide which the application for cancellation of report under Section 173(8) Cr.P.C. moved by the accused had been dismissed and charge for offence under Section 304 IPC was framed against the petitioners.

Briefly stated, facts of the case are that FIR No.225 dated 13.10.2012 for the offence under Section 304 IPC was registered at Police Station Dakha, Ludhiana on the basis of application moved by Smt.Rajinder Pal Kaur wife of Harpreet Singh, resident of House No.519,

Street No.10, Satjot Nagar, Dugri, Dhandra Road, Ludhiana.

Inter alia in the said application dated 4.5.2012 addressed to Registrar, Punjab State Human Rights Commission, Chandigarh, it has been contended that Smt.Manjit Kaur, mother of the complainant was killed by accused on 15.4.2012 but police had not taken any action against the accused under their influence; that as a matter of fact Smt.Manjit Kaur had been residing with her grandson Jaspreet Singh, his wife and mother; that both the sons of Smt.Manjit Kaur had predeceased her ; that daughter-in-law and grandson of Smt.Manjit Kaur were keeping her with them; that Smt.Manjit Kaur owned about 5 acres of land; that according to complainant when she came to know from village Dholan that her mother's condition was poor and pitiable, she tried to meet her but the accused did not allow her, as such she approached Sub Divisional Magistrate, Jagraon for issuing search warrant for recovery of her mother and for getting her released from illegal custody of accused but due to influence of accused persons, those warrants could not be executed; that thereafter the complainant got a news that her mother Smt.Manjit Kaur usually cried lonely in custody of accused and accused had killed Smt.Manjit Kaur on 15.4.2012 to grab her property; that the accused had also taken loan on 3 acres of land of Smt.Manjit Kaur, which they have not returned till date and Smt.Manjit Kaur was very tense about it; that she had asked the accused to return the amount to the bank but the accused did not care about it; that accused had forcibly taken Smt.Manjit Kaur along with them on 19.4.2011 against her wishes; that the accused after killing Smt.Manjit Kaur tried to cremate her hurriedly but the

complainant intervened and got post-mortem examination conducted on the dead body of Smt.Manjit Kaur; that in the post-mortem report, it has been clearly mentioned that there were injuries on her person; that the complainant approached the local police for registration of the FIR against the accused but the police rather pressurized the complainant to keep mum. According to the complainant, she had approached high officers of the police department but no action was taken. The local police started raiding house of complainant at late night hours and harassing the womenfolk pressuring the complainant not to pursue the case against the accused. The complainant had to take shelter in her relatives home, therefore, the complainant filed application requested that matter be got investigated from ADGP-IVC – CUM – Human Right, Punjab, Chandigarh. On receipt of the said application in Punjab State Human Right Commission, Chandigarh, it was marked to ADGP-IVC – CUM – Human Right, Punjab Chandigarh, who in turn sent it to ADGP, Ludhiana Range, Ludhiana, who further forwarded it to SSP, Khanna vide application dated 17.7.2012 and SSP, Khanna marked it to SP(Headquarter), Khanna for investigation, who during investigation recorded statements of applicant – complainant Rajinder Pal Kaur, Harbans Singh son of Major Singh, resident of Dholan and from the opposite side Jaspreet Singh had sent his statement through courier, however, later on Jaspreet Singh along with his mother Smt.Pushpinder Kaur wife of Gurdeep Singh got recorded their statements. Jaspreet Singh claimed that Smt.Manjit Kaur had executed a Will dated 21.4.2011 in his favour; that Smt.Rajinder Pal Kaur had challenged that Will in Civil Court

at Jagraon. At the time of death Smt.Manjit Kaur, was aged about 80-85 years but was unable to take care of herself. Smt.Rajinder Pal Kaur had informed SSP, Ludhiana (Rural). The proceedings under Section 174 Cr.P.C. were held regarding death of Smt.Manjit Kaur. Post-mortem examination was also conducted on her dead body by a team of doctors. Such examination revealed presence of six injuries on the dead body of Smt.Manjit Kaur. It was on the basis of inquiry report that formal FIR was registered. On completion of investigation and other formalities, challan against Jaspreet Singh and his mother Smt.Pushpinder Kaur was filed in the Court of Magistrate. Jaspreet Kaur has declared as proclaimed offender. Charge for the offence under Section 304 IPC was framed against accused Jaspreet Singh and Smt.Pushpinder Kaur. A supplementary report under Section 173(8) Cr.P.C. was filed by the police giving clean chit to the accused but that was not considered by the trial Court.

Feeling aggrieved, the petitioners have approached this Court by way of filing the present petition.

Notice of the petition was issued to the respondent – Stae, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The accused are aggrieved by the fact that charge for offence under Section 304 IPC has been framed against them. According to them there was no evidence worth the name to warrant framing of such charge. Admittedly, the deceased had been residing with her grandson Jaspreet

Singh, his wife Smt.Jaspreet Kaur and mother Smt.Pushpinder Kaur. It is not in dispute that the two sons of Smt.Manjit Kaur had predeceased her and her daughter Smt.Rajinder Pal Kaur is married residing in her matrimonial home at Ludhiana. Death of Smt.Manjit Kaur is also not in dispute. The crucial question to be seen is as to whether accused had killed Smt.Manjit Kaur by giving beatings to her on 15.4.2012, the motive being to grab her property. When Smt.Manjit Kaur had died, post-mortem examination on her dead body was conducted. A perusal of her post-mortem examination report shows that six injuries had been observed on her body. As per medical opinion, the cause of death was to be disclosed after receipt of Chemical Examiner report. As per final report sent by the doctor to the police on receipt of report of Chemical Examiner showing that Diazepam was detected in the contents of exhibits, however, no poison was detected. The cause of death was opined to be due to septicemic shock as a result of injuries as described and bedsores. The Diazepam salt used in the sleeping pills and such type of sleeping pills are usually prescribed by the doctor to grant relief to the patients having pain and suffering from sleeplessness. If we see the inquest report, then the injuries on the person of dead body are shown to be result of bedsores and it being a case of natural death. It further comes out that Smt.Manjit Kaur had executed a Will bequeathing her properties to her grandson Jaspreet Singh. The Will was registered on 25.4.2011. Further, Smt.Rajinder Pal Kaur had filed a CRM-M-23245-2011 in this regard against Jaspreet Singh and others, which was dismissed imposing a cost of Rs.10,000/- upon her. All these factors have been taken into consideration in the

inquiry conducted by Superintendent of Police (Headquarter), Ludhiana (Rural) and mentioned in the supplementary challan. It has been observed that Smt.Manjit Kaur, an old lady had suffered injury in the form of fracture in the thigh bone as a result of which, she became bedridden and developed bedsores. She had died due to septicemic shock as a result of bedsores and not as a result of any injury caused to her by the accused. A perusal of the post-mortem report of deceased Smt.Manjit Kaur goes to show that she was aged about 80 years and as per information furnished by the police, she had died a certain natural death, though fracture in her femur had been detected and some wounds also noticed but then the doctors had not given any specific opinion that those were the injuries caused as a result of beating and their probability of result of bedsores is much more. Superintendent of Police(Headquarter), Ludhiana (Rural) had addressed a communication to Senior Medical Officer, Civil Hospital, Jagraon asking for giving a clear report regarding cause of death of Smt.Manjit Kaur and in response to that communication bearing No.125 dated 15.5.2013, it was intimated as follows:

1. Post Mortem no.HS/VK/KS/10/12 dated 15/04/12 was done on the body of Mrs.Manjeet Kaur (80 years old) w/o Mr.Ajit Singh R/o VPO Dholan.
2. Body was found to be malnourished. Oedema of both legs and signs of weight loss were present.
3. Injury No.1 was an old partially healed fracture of femur.
4. Injury Nos.2,3,4, 5 were un healed wounds caused due

to bedsores due to prolonged illness.

5. On dissection of lungs, pus oozed out from cut sections of lungs.

The cause of death in our opinion is due to septicemic shock as a result of injuries (unhealed ulcers) described above which are sufficient to cause death in ordinary course of nature.

Thus the stand of the defence that injuries No.2 to 5 were bedsores and injury No.1 had been caused due to fall seem plausible. Then Smt.Manjit Kaur is shown to have furnished an affidavit that her married daughter Smt.Rajinder Pal Kaur had fallen in bad company and was not within her control and she was disinheriting her. She had executed a power of attorney in favour of Jaspreet Singh also, which is dated 21.4.2011 and is a registered document. The inquiry report by Superintendent of Police(Headquarter), Ludhiana (Rural) dated 28.5.2013 is quite detailed one and is certainly a relevant document to be taken into consideration. Furthermore, Smt.Rajinder Pal Kaur is shown to have initiated civil litigation against her mother Smt.Manjit Kaur deceased by way of filing a suit for grant of permanent injunction restraining her from alienating/transferring any portion of the landed property in her name, copy of plaint being dated 29.4.2011, which suit was then dismissed in default vide order dated 1.8.2012. Smt.Manjit Kaur had even inserted a public notice in the newspaper dated 29.1.2012 disinheriting Smt.Rajinder Pal Kaur from her properties. Smt.Rajinder Pal Kaur had filed a petition under Section 482 Cr.P.C. bearing CRM-M-23245-2011 in this Court

seeking protection which was dismissed vide order dated 3.8.2011 with costs of Rs.10,000/-. There are specific allegations that the complainant in order to grab property of her mother had procured one forged and fabricated agreement to sell relating to her property. On coming to know about it, Smt.Manjit Kaur had disinherited her from her moveable and immovable properties. The complainant had moved an application under Section 97 Cr.P.C. before Sub Divisional Magistrate, Jagraon levelling allegations against the accused that Smt.Manjit Kaur was being wrongly confined by them. Search warrants were issued and a police team raided the house of accused finding that Smt.Manjit Kaur was not wrongfully confined and she was lying on the cot with Jaspreet Kaur taking care for her. Several persons from nearby were gathered and their statements were recorded besides recording statement of Smt.Manjit Kaur. Videography was also got done. The allegations levelled by Smt.Rajinder Pal Kaur were found to be false.

While perusing the lower Court record, I find that material documents in that regard are available there, which ought to have been taken into consideration by the trial Court at the time of framing of charge but it seems that it was not so done.

Under the circumstances, the impugned order framing charge for the offence under Section 304 IPC against the accused is not sustainable, the same is set aside by way of acceptance of the revision petition directing the trial Court to consider the matter afresh taking into consideration the entire material available on record including the supplementary challan filed by the police and then to pass detailed order

giving reasoning. Since the case is quite old pending since the year 2012, the needful be done at the earliest preferably within a period of three weeks from the date of receipt of lower Court record there. The petitioners through their counsel are directed to appear in the trial Court on 19.12.2017. The State counsel has also been intimated in that regard directing him to inform the prosecution agency accordingly. The record along with copy of this order be sent back immediately.

30.11.2017

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**