

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

1. Criminal Misc. No.M- 980 of 2017(O&M)
Date of Decision: October 23 , 2017.

Manju and another PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

2. Criminal Misc. No. M- 4286 of 2017(O&M).

Manju and another PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

3. Criminal Misc. No. M- 10793 of 2017(O&M).

Sarju Devi PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

4. Criminal Misc. No. M- 11396 of 2017(O&M).

Sarju Devi PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

5. Criminal Misc. No. M- 1218 of 2017(O&M).

Suman Nath PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

6. Criminal Misc. No. M- 5792 of 2017(O&M).

CRM No.M-980 of 2017 and connected cases

-2-

Suman Nath

..... PETITIONER(s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. K.S.Sidhu, Advocate
for the petitioners
(in CRM No.M-980 and 4286 of 2017).

Mr. Pardeep Virk, Advocate
for the petitioners
(in CRM No.M-1218, 5792, 11396 and 10793 of 2017).

Mr. Saurav Khurana, DAG, Punjab.

Mr. Amaninder Preet, Advocate
for the complainant.

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?

LISA GILL, J.

This order shall dispose of,

- (1) CRM No.M-980 of 2017 preferred by Manju (sister-in-law of the deceased) and Mukesh (son of Manju) seeking concession of anticipatory bail in FIR No.30 dated 11.06.2016 under Sections 304B and 120B IPC registered at Police Station Mullanpur, District SAS Nagar;
- (2) CRM No.M-4286 of 2017 filed by Manju and Mukesh for setting order dated 16.01.2017 passed by the learned Judicial Magistrate First Class, Kharar whereby they have been declared proclaimed offenders;
- (3) CRM No.10793 of 2017 preferred by Sarju Devi (mother-in-law of the

deceased) seeking the concession of anticipatory bail in FIR No.30 dated 11.06.2016 under Sections 304B and 120B IPC registered at Police Station Mullanpur, District SAS Nagar;

- (4) CRM No.M-11396 of 2017 filed by Sarju Devi challenging order dated 16.01.2017 passed by the learned Judicial Magistrate First Class, Kharar declaring her a proclaimed offender;
- (5) CRM No.1218 of 2017 preferred by Suman Nath wife of Narendra Nath (allegedly a neighbour having illicit relations with husband of the deceased) seeking the concession of anticipatory bail in FIR No.30 dated 11.06.2016 under Sections 304B and 120B IPC registered at Police Station Mullanpur, District SAS Nagar; and
- (6) CRM No.M-5792 of 2017 filed by Suman Nath challenging order dated 16.01.2017 passed by the learned Judicial Magistrate First Class, Kharar declaring her a proclaimed offender.

All the petitioners seek the concession of anticipatory bail in FIR No.30 dated 11.06.2016 under Sections 304B and 120B IPC registered at Police Station Mullanpur, District SAS Nagar. Final report under Section 173 Cr.P.C. has been presented qua the accused Roop Kishore (husband of the deceased) under Sections 302/304B/306/120B IPC.

The facts for the sake of convenience are extracted from CRM No.M-980 of 2017 preferred by Manju (sister-in-law of the deceased) and Mukesh (son of Manju).

The abovesaid FIR was registered on the statement of the complainant, Vinod Soni i.e., the brother of the deceased. As per the allegations in the FIR, the deceased was married to Roop Kishore (in custody) on

20.01.2010. Roop Kishore was working at PGI Chandigarh. He alongwith the complainant's sister lived in a rented house at Chandigarh. The complainant's sister, it is stated, was harassed by Roop Kishore and his family members to extract money from her parents for purchasing a house. It is stated that money was given to Roop Kishore through Bank transfer and cash for the purpose of purchasing a flat. A flat was purchased by Roop Kishore in the name of the complainant's sister. She was however further harassed to bring another sum of ₹10,00,000/- from her parental home. She was not allowed to use her gold jewellery. Roop Kishore was living alongwith his family in the said flat at Omaxe City since one year prior to the date of incident in question. Nephew of Roop Kishore i.e., the petitioner – Mukesh is alleged to be residing with them for the purposes of study and treatment. The complainant stated that his sister told him telephonically on 09.06.2016 that her mother-in-law Sarju Devi came to their residence 10-15 days prior thereto. Thereafter, Roop Kishore was physically abusing the complainant's sister and threatening to kill her. Roop Kishore, Sarju Devi and Suman Nath are alleged to have physically abused the complainant's sister on 09.06.2016. Petitioner – Suman Nath was alleged to be having illicit relations with the husband of the deceased Roop Kishore for the past 4-5 years. Roop Kishore and husband of Suman Nath were working together at PGI, Chandigarh and were earlier residing near each other. The complainant received a Whatsapp message on 10.06.2016 from his sister's mobile stating that her mother-in-law, sister-in-law and neighbour Suman Nath are responsible for her death. The complainant tried to contact his sister and her husband Roop Kishore but his call was not attended. He informed his elder

brother at Hyderabad and ultimately, the complainant and his brother reached Chandigarh on the intervening night of 10th and 11th June, 2016. The deceased committed suicide by hanging with a Dupatta due to harassment and ill-treatment meted out to her by her husband Roop Kishore, mother-in-law Sarju Devi, sister-in-law Manju, nephew Mukesh and Suman Nath, neighbour. Husband of the deceased was alleged to have absconded after admitting the complainant's sister at PGI. FIR was registered under Sections 304B/120B IPC. Sections 302/306 IPC were added subsequently. Cause of death is mentioned to be death due to hanging. Co-accused Roop Kishore is admittedly in custody and facing trial.

Learned counsel for the petitioners – Manju and Mukesh submits that the said petitioners are permanent residents of Chennai. Reference is made to the ration card, LPG connection, bank account (Annexures P3, collectively). Petitioner – Mukesh, it is submitted, has received his entire education at Chennai and is now working with a multi-national company, namely, TIG MIG Plasma Building and Services at Jamanagarwala Complex, Chennai. Reference is made to his academic certificates as well as certificates of work experience, Annexures P6 (collectively) and P7 (collectively).

Manju, it is submitted, had come to visit Chandigarh only for the purpose of seeking consultation at PGI. Petitioner – Manju is suffering from various chronic ailments. Reference is made to her medical record/treatment at Chennai from 2006 onwards (Annexure P4, collectively). It is thus contended that there is no question of any harassment or ill-treatment meted out to the deceased at their hands.

It is further urged that the deceased herself was keeping poor health.

She was suffering from multifarious ailments. Learned counsel refers to the medical record of the deceased regarding her treatment at PGI Chandigarh (Annexure P2). As per the treatment summary dated 16.11.2016 issued by PGI, Chandigarh, it is mentioned that the deceased had approached the Rheumatology Out Patient Department (OPD) on 16.08.2014 with complaints of inflammatory type low back and neck pain. She was found to have bilateral sacroiliac joint tenderness and MRI of sacroiliac joints was suggestive of left sided early sacroilitis. It is mentioned that the Doctor attending the patient on 04.07.2015 in rheumatology OPD noted that the patient had features suggestive of depression. She was advised to take Psychiatry consultation for appropriate management. Thereafter, in August 2015, she was evaluated in gastroentrology Department for loss of appetite, loss of weight and constipation. Colonoscopy showed multiple ulcers in terminal ileum and biopsy from ulcer showed ulcerated epithelium with cryptitis, crypt abscess and crypt loss.

It is urged that it is due to the medical condition of the deceased that she committed suicide. The present FIR has been registered only with a view to unnecessarily rope in all the family members in the case. It is further submitted that it was the second marriage of the deceased with Roop Kishore. Learned counsel for the petitioners vehemently urge that the complainant side had lodged FIR No.225 dated 04.06.2005 under Sections 498A/406/323/354 IPC against the first husband of the deceased as well. Moreover, the complainant himself is stated to be facing proceedings in FIR No. 67 of 2015, Mahila Police Station, Bikaner under Sections 498A/406/323/307/341 IPC. It is vehemently argued that the medical evidence on record falsifies the prosecution version as the post-

mortem report does not indicate any injuries on the person of the deceased. Neither is there any evidence to show that the deceased was ever subjected to any ill-treatment or harassment at the hands of the petitioners. The brother of the deceased has thus lodged this complaint against the petitioners with ulterior motives.

It is further submitted that the petitioners Manju and Mukesh had filed an application seeking the concession of anticipatory bail before the learned Sessions Judge, Mohali on 19.12.2016. The same was dismissed on 27.12.2016 (Annexure P8). They were afforded the benefit of anticipatory bail on 16.01.2017 itself by this Court. The counsel for the complainant, it is submitted, was present before this Court on 16.01.2017. Proceedings under Section 82 Cr.P.C. were undertaken in complete violation of the provisions of law. Pendency of such proceedings were never brought to the notice of the learned Sessions Judge, Mohali. Petitioners – Manju and Mukesh are residents of Chennai and admittedly no proclamation was ever made at their place of residence. Thus order dated 16.01.2017 has been passed in utter violation of the provisions of law. Moreover, the petitioners have joined investigation and it cannot be said that they are evading the process of law.

In respect to the petitioner – Sarju Devi i.e., the mother-in-law of the deceased, it is submitted that she is an old woman suffering from various diseases as apparent from the medical record (Annexure P6 in CRM No.M-10793 of 2017). It is further submitted that the petitioner Sarju Devi is a resident of Rajasthan. It is vehemently argued that the petitioner – Sarju Devi had, in fact, transferred a substantial amount of money in the account of the deceased.

Reference is made to the documents attached as Annexure P2, collectively in CRM No.M-10793 of 2017. Learned counsel for the petitioner argues that had there been any demand of dowry etc. from the deceased, it is not possible that the mother-in-law of the deceased would have transferred the said amount of money in her account. Moreover, allegations of demand of dowry for purchase of the flat/house in question are absolutely incorrect. There is nothing on record to substantiate such allegations. The said flat was purchased in the name of the deceased which negates the allegation of demand of dowry. There are no specific allegations against the petitioner to point out commission of any offence by the present petitioner. The petitioner Sarju Devi is stated to be 77 years old, suffering from multifarious diseases. It is submitted that she visited Chandigarh occasionally for the purpose of her treatment at PGI, Chandigarh. There is no question of any harassment or demand of dowry being raised by her.

In respect to order dated 16.01.2017 whereby the petitioner – Sarju Devi was declared to be a proclaimed offender, it is submitted that the petitioner has not evaded the process of law in any manner. Order dated 16.01.2017 has been passed in complete violation of the provisions of law. The petitioner Sarju Devi, at the first instance filed a petition under Section 438 Cr.P.C. on 17.01.2017/21.01.2017. The said petition was dismissed by the learned Sessions Judge, Mohali on 09.03.2017. It is vehemently argued that the fact of the petitioner being declared a proclaimed offender was not even brought to the notice of the learned Sessions Judge by the prosecution which clearly shows the illegal manner in which the said order has been passed with an oblique motive.

In respect to the petitioner – Suman Nath, learned counsel argues that she has nothing, whatsoever, to do with the controversy in hand. Husband of petitioner – Suman Nath and Roop Kishore were working together at PGI. She has unnecessarily been embroiled in the controversy. There is nothing on record to show that she had illicit relations with the husband of the deceased. The allegations are totally baseless, false and incorrect. It is stated that the petitioner-Suman Nath alongwith her husband resided in rented accommodation in Dhanas, Chandigarh whereas, Roop Kishore shifted to Omaxe City, Mullanpur. Her husband had a flat in Omaxe City and he used to visit the husband of the deceased when they shifted to Omaxe City in order to help him take care of his ailing mother who had come to his residence about ten days prior to the incident in question. It is urged that the deceased was herself suffering from numerous problems including emotional and psychological problems. In respect to order dated 16.01.2017 (Annexure P7 in CRM No.M-5792 of 2017), it is reiterated that the same has been passed in violation of the settled provisions of law. The petitioner – Suman Nath, it is stated, was not even residing at Omaxe City. The said flat was lying locked and none resided there. Petitioner was never served in the proceedings under Section 82 Cr.P.C. In a totally mala fide manner, notice is stated to be issued at the address of Omaxe City, Mullanpur. Moreover, the petitioner had approached the learned Sessions Judge for the concession of anticipatory bail on 23.12.2016, which was declined on 27.12.2016. Thereafter, the petitioner approached this Court by way of filing CRM No.M-1218 of 2017 on 13.01.2017. The matter came up before this Court

on 18.01.2017 when notice of motion was issued and the matter was directed to be listed alongwith CRM No.M-980 of 2017. The complete violation of the provisions of law before passing order dated 16.01.2017 is apparent from the fact that the pendency of proceedings under Section 82 Cr.P.C. were not even brought to the notice of the learned Sessions Judge during the pendency of the petitioner's bail application. The petitioner was thus completely unaware of the said proceedings against her. It cannot be said that she is evading the process of law. Moreover, she has joined investigation pursuant to interim order of this Court.

Learned counsel for all the petitioners submit that the deceased was suffering from various ailments including psychological problems. Order dated 16.01.2017 declaring them proclaimed offenders is in clear violation of the provisions of law. It cannot be said that the petitioners, who were availing the legal remedies available to them, were evading the process of law in any manner. The petitioners undertake to face the proceedings in this case and join investigation. There is no question of their absconding from the process of law in any manner. To the contrary, lack of bona fides on the part of the complainant side, it is urged, are apparent from the fact that the petitioners – Mukesh and Manju were declared to be proclaimed offenders on 16.01.2017 i.e., the day on which interim relief was afforded to them by this Court. It is submitted that the counsel for the complainant was duly present at that time.

It is thus prayed that order dated 16.01.2017 declaring the petitioners to be proclaimed offenders be set aside and the concession of anticipatory bail be afforded to all the petitioners.

Learned counsel for the State as well as the complainant have opposed these petitions. Learned counsel for the State while referring to affidavit dated 27.03.2017 of Mr. Lakhbir Singh, PPS, Deputy Superintendent of Police, Sub Division Kharar, SAS Nagar (Mohali) filed in CRM No.M-980 of 2017 submits that warrants of arrest of all the petitioners were obtained from the court of competent jurisdiction on 02.07.2016 for 28.07.2016. Raids were conducted at village Merta in Rajasthan in association with the personnel of Police Station Merta but they could not be apprehended. Warrants of arrest were again issued on 31.08.2016 for 17.09.2016. Raids were yet again conducted at village Merta in Rajasthan at the residence of the petitioner – Sarju Devi (mother-in-law of the deceased). Another daughter-in-law of the petitioner – Sarju Devi recorded her statement to the effect that Sarju Devi, Mukesh and Manju were not visiting the said house and she was not aware of the present addresses of these persons. Warrants of arrest were again issued on 20.09.2016 for 29.10.2016. Raids were yet again conducted at village Merta. Statement of Om Parkash, the another son of petitioner – Sarju Devi was recorded. He specifically stated that the petitioners – Manju and Mukesh were residing at Madras (Chennai) for the last 30-35 years but he did not have their address. Residence of the petitioner – Suman Nath at Mullanpur was raided but was found locked. Proceedings under Section 82 Cr.P.C. were initiated against them on 02.11.2016. Copies of proclamation were pasted at Bus Stand, Khajwana (Rajasthan) and Bus Stand, Mullanpur (Punjab) and outside the house of the petitioners at Rajasthan on 29.11.2016. Copy of the proclamation was also pasted outside the court complex Kharar and another at the gate of the petitioner

– Suman Nath's house in the presence of Varinder Singh, Security Guard at Omaxe City, Mohali. All the petitioners were ultimately declared proclaimed offenders on 16.01.2017. It is further submitted that specific allegations have been levelled against all the accused-petitioners. As per the FSL report, signatures on the copy of the suicide note tally with the admitted signatures of the deceased.

Learned counsel for the complainant refers to affidavit dated 01.03.2011 (Annexure A1 in CRM No.M-1218 of 2017) allegedly executed by the co-accused Roop Kishore at Rajasthan. As per the said affidavit, the co-accused Roop Kishore (in custody) stated that he would not maintain illicit relation with Suman Nath who physically abused his wife (the deceased). He further admitted that Suman Nath tried to kill his wife by giving some poisonous substance. It is further stated that his mother, sister and the sister's son tried to kill his wife by throwing her in Water Tank at Meidta City. He further stated that he would not allow such incidents to take place in future and would ensure that the said family members would not harass his wife for money. It is submitted that in view of the specific allegations against the accused persons, all these petitions should be dismissed.

I have heard learned counsel for the parties at length and have gone through the files with their able assistance.

As per the allegations in the FIR, the complainant's sister was married to Roop Kishore (non-applicant). She was allegedly harassed by her husband and the other family members for arranging money from her parents for purchasing a house. Money was allegedly transferred to Roop Kishore through

bank and cash. A flat was resultantly purchased in the name of the complainant's sister. She was further harassed for bringing another sum of ₹10,00,000/-. She was not allowed to use her gold jewellery. It is stated that Mukesh i.e., the son of sister-in-law of the deceased was residing with them for purpose of his studies. The complainant's sister called the complainant on 09.06.2016 and informed him that her mother-in-law Sarju Devi had come to stay with them since the last 10-15 days. Thereafter her husband Roop Kishore was physically abusing her and threatening to kill her. On the said date Roop Kishore, Sarju Devi and Suman Nath physically abused the deceased. Illicit relations between Roop Kishore and Suman Nath were alleged. The complainant's sister earlier told the complainant that her sister-in-law Manju and her son Mukesh physically abused her in the flat. Reference is also made to a picture of Whatsapp message i.e., a note allegedly written by the deceased that her mother-in-law, sister-in-law and neighbour Suman Nath are responsible for her death.

It is relevant to note that there is no denial of the medical record of the deceased appended with these petitions. It is further not denied that as per the post-mortem report, no injury was found on the person of the deceased. The veracity, effect or otherwise of affidavit allegedly executed by the co-accused Roop Kishore on 01.03.2011 at Bikaner shall, needless to say, be looked into by the investigating agency/trial court.

The petitioners Manju and Mukesh have placed on record various documents to show that they are residents of Chennai. The educational certificates of the petitioners Mukesh as well as his work experience are on

record as well. In affidavit dated 27.03.2017 of Mr. Lakhbir Singh, PPS, Deputy Superintendent of Police, Sub Division Kharar, SAS Nagar (Mohali) reference is made to the statement of another son of Sarju Devi (brother and uncle of the petitioners Manju and Mukesh, respectively) to the effect that they were living at Chennai for the last 30-35 years. There is further reference to the statement of Suresh Shankla to the effect that the house in question had been sold by the owners who were residing at Madras (Chennai) for the last 10 years and their present whereabouts were not known to him.

In respect to the petitioner – Suman Nath (an erstwhile neighbour of the deceased) in CRM No.M-5792 of 2017, it is noted that learned counsel referred to the Adhaar Card (Annexure P1) and LPG connection (Annexure P2) to submit that Suman Nath is a resident of Single Housing Board Colony, Dhanas, Chandigarh and not Omaxe City, Mullanpur. Learned counsel submits that though a flat at Omaxe City was purchased by the petitioner's husband but no one was residing there. The said premises were lying locked. Reference was also made to the Income Tax Returns of Suman Nath's husband pertaining to the assessment years 2013-2014, 2014-2015 and 2015-2016 wherein her husband's address is mentioned that of Dhanas and not Mullanpur. The said documents have not been denied.

A perusal of the orders whereby bail applications of the petitioners Manju, Mukesh and Suman Nath were dismissed, indicates that the factum of the proceedings initiated under Section 82 Cr.P.C. were never brought to the notice of the learned court below. The said petitioners were admittedly availing the

remedies available to them. It cannot be said that they were deliberately evading the process of law, especially keeping in view the facts as discussed above. The petitioners Manju and Mukesh have joined investigation pursuant to order dated 16.01.2017 passed by this Court in CRM No.M-980 of 2017. The petitioner – Suman Nath appeared before the concerned Area Magistrate pursuant to order dated 29.03.2017 passed in CRM No.M-5792 of 2017 and she has been admitted to interim bail on her appearance. It is further not in dispute that she has since joined investigation. Therefore in this situation, it cannot be said that the said petitioners are evading the process of law.

The petitioners – Manju, Mukesh and Suman Nath have admittedly submitted to the process of law, they have joined investigation, therefore no further orders are required to be passed in CRM No.M-4286 of 2017 and CRM No.M-5792 of 2017 challenging order dated 16.01.2017 passed by the learned Judicial Magistrate First Class, Kharar declaring the petitioners – Manju, Mukesh and Suman Nath to be proclaimed offenders. Both the petitions are accordingly disposed of.

Without delving in a detailed discussion of the facts, lest prejudice be caused to either side, it is considered just and expedient in the facts and circumstances to allow CRM No.M-980 of 2017 preferred by the petitioners – Manju and Mukesh. Consequently, order dated 16.01.2017 passed in CRM No.M-980 of 2017 is made absolute.

CRM No.M-1218 of 2017 preferred by the petitioner – Suman Nath is disposed of with a direction that interim bail afforded to her by the concerned Area Magistrate pursuant to order dated 29.03.2017 passed by this Court in

CRM No.M-5792 of 2017 be made absolute subject to her furnishing fresh bail bonds and surety to the satisfaction of the said learned Area Magistrate.

However, in respect to the petitioner – Sarju Devi i.e., mother-in-law of the deceased, I do not find any ground to extend the benefit of anticipatory bail to her in the facts and circumstances of the case. The transfer of various amounts of money in the account of the deceased by itself cannot be of any benefit to her. It is not in dispute that the petitioner – Sarju Devi was admittedly receiving treatment at PGI, Chandigarh and was present in Chandigarh at the time of occurrence. Various raids were admittedly conducted at village Merta (Rajasthan). Statement of one of her sons was recorded. There is nothing on record to suggest that she was not on talking terms with her son. In fact, she is a resident of Rajasthan. It cannot be said that she was not aware of the proceedings under Section 82 Cr.P.C. against her. Petitioner – Sarju Devi has not submitted to the process of law. Finding no ground to grant the concession of anticipatory bail to the petitioner – Sarju Devi, CRM No.M-10793 of 2017 preferred by Sarju Devi is dismissed.

However, keeping in view the facts and circumstances of the case, CRM No.M-11396 of 2017 challenging order dated 16.01.2017 qua Sarju Devi is disposed of with a direction that in case the petitioner – Sarju Devi surrenders before the court of competent jurisdiction on or before 01.11.2017, her application for regular bail, if preferred, be decided expeditiously in accordance with law, preferably within one week.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely

confined for the purpose of decision of these petitions.

October 23, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No