

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1) CRR No. 3565 of 2015 (O&M)
Date of decision : 13.7.2018

...

Meena Rani

.....Petitioner

vs.

State of Punjab and another

.....Respondents

2) CRM-M No. 7538 of 2015 (O&M)

...

Meena Rani and others

.....Petitioners

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Ms. Baljit Mann, Advocate for the petitioner in
CRR-3565-2015

Mr. T.P. Singh, Advocate for the petitioners in
CRM-M-7538-2015

Mr. Dhruv Dayal, Senior Deputy Advocate General,
Punjab

Mr. Bhupinder Banga, Advocate for respondent No.2
in both the cases.

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H. S. Madaan, J.

Vide this judgment, I intend to dispose of CRR-3565-

2015 titled as 'Meena Rani vs. State of Punjab and another' and CRM-M-7538-2015 titled as 'Meena Rani and others vs. State of Punjab and another', as both these petitions are outcome of the same complaint.

CRR-3565-2015 is directed against order dated 13.7.2015 vide which charge for an offence under Section 306 IPC has been framed against petitioner Meena Rani in complaint case filed by complainant Rattan Chand, impleaded as respondent No.2 in the present petition against Lachhman Dass, his wife Darsho, son Surinder Pal and daughter Meena Rani – present petitioner.

Whereas CRM-M-7538-2015 has been filed under Section 482 Cr.P.C. seeking setting aside of summoning order dated 27.2.2009, passed by Chief Judicial Magistrate, SBS Nagar, in that complaint titled as 'Rattan Chand vs. Lachhman Dass and others', as well as order dated 16.12.2014, passed by Additional Sessions Judge, SBS Nagar, vide which the revision petition filed by accused Meena Rani, Lachhman Dass, Darsho and Surinder Pal, had been dismissed and summoning order had been upheld.

Briefly stated, facts of the case, are that complainant Rattan Chand had filed a complaint against accused aforesaid on the allegations that his daughter Anju was married with Mohinder Pal s/o Lachhman Dass and Darsho, accused on 24.10.1999 and at that time he had given sufficient dowry, but accused were not satisfied with the same and they started harassing his daughter Anju. The police had been intimated but on an assurance given by the accused, the matter was patched up. However, the accused did not change their behaviour and kept harassing and maltreating Anju for her inability to give birth

to a child. The accused used to pressurise Mohinder Pal to divorce Anju. Accused caused death of Anju on 30.1.2006. Mohinder Pal could not bear the trauma of death of his wife Anju and he also died.

The police registered the FIR, but the accused were not arrested. Therefore, the complaint in question was filed in the Court. After recording of preliminary evidence, the accused were summoned. They put in appearance. They had challenged the summoning order by way of filing revision petitions in the Court of Sessions. However, those were dismissed by the Additional Sessions Judge, SBS Nagar vide order dated 16.12.2014. As a matter of fact, charge for offence under Section 306 IPC has been framed against the accused.

Feeling aggrieved by that order, Meena Rani has filed the revision petition before this Court, whereas all the four accused have challenged the summoning order.

Notice of petitions was given to the respondents, who put in appearance.

I have heard learned counsel for the petitioner(s), learned State counsel, learned counsel for the complainant, besides going through the record.

Learned counsel for the petitioners have submitted that earlier son of the complainant had lodged the FIR against the accused, however, during the course of investigation, it was found that accused had not committed any offence, therefore, the FIR was cancelled. The complainant has filed the present complaint without any justifiable reason.

Learned State counsel has submitted that as a result of investigation in the matter, the police could not find any evidence to hold the accused named in the FIR responsible for deaths of the deceased, as such cancellation report had been prepared and filed in the Court.

Learned counsel appearing for the petitioners had submitted that deceased Anju was Sarpanch of the village and was socially active and it is highly unlikely that she could be tortured and maltreated by the accused, so as to force her to bring more dowry articles and further could be taunted for not giving birth to a child. As a matter of fact, Anju and her husband had committed suicide out of same frustration but the accused cannot be held responsible for the same. The complaint has been filed on false grounds and accused have been wrongly summoned and charge framed. Therefore, impugned orders be set aside.

Counsel for the petitioners have referred to citation **Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh 2002 (2) RCR (Criminal) 687**, wherein the Apex Court dealing with a case under Section 306 IPC, when a quarrel had taken place between the accused and husband of his sister, the accused told the deceased to go and die, the deceased had committed suicide on the third day of the quarrel, it was observed that it cannot be held that suicide was direct result of quarrel, since there was enough time for the deceased to think over and reflect. Resultantly, charge of abetment against accused was quashed. In that very authority, analysing the meaning of 'abetment' under Section 107 IPC, it was observed that Section 107

IPC defines abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, that doing of that thing.

Learned counsel for the petitioners further referred to authority **Ram Sarup vs. Ravi and others 2012 (5) RCR (Criminal) 594**, by a Coordinate Bench of this Court, which while dealing with offence of abetment of suicide under Section 306 IPC, had observed that word 'instigate' denotes incitement or urging to do some drastic or un-advisable action or to stimulate or incite and presence of mens rea is necessary concomitant of instigation. It was observed that it is common knowledge that words uttered in a quarrel or at spur of the moment cannot be taken to be uttered with mens rea.

In next authority, cited i.e. **Pritam Singh and another vs. State of Punjab 2015 (2) RCR (Criminal) 633**, by a Coordinate Bench of this Court, where a wife had died at her matrimonial home, as a result of hanging due to asphyxia, the complainant had no where stated that the accused had harassed or tortured the deceased with some mens rea, it was observed that the deceased was educated as such she could have easily left behind a suicide note stating that her in-laws constrained her to take such an extreme step. It was observed that ingredients of Section 306 IPC were not made out.

However, learned counsel representing the complainant

has contended that there is nothing wrong with the impugned orders and no ground is made out to set aside the same.

In the present case, Anju was Sarpanch of the village meaning thereby socially and politically active and if she had been harassed or maltreated by her in-laws, she would not have taken the things lying down and would have reported the matter to the police and other wings of the administration at the earliest, but that was not to be so. Similarly she would not have taken the alleged taunting by her in-laws of being unable to bear a child very meekly. Furthermore, her husband could not have committed suicide being fed up with alleged harassment at the hands of the petitioners, as alleged. Though the matter was initially reported to the police but the police after investigation did not find any truth in the allegations and had prepared cancellation report. Thereafter, the complaint in question was filed, where the accused had been summoned.

The complainant had levelled allegations of murder, in the alternative abetment of suicide, against the accused. Learned Magistrate did not find any merit in the allegations with regard to accused having committed murder of Anju and her husband, though summoned the accused for offence under Section 306 IPC and charge has been framed against them. Though it could be said that Anju and her husband had committed suicide, but it cannot be said that suicide had been abetted by the accused. The allegations and evidence led/sought to be led, do not establish abetment in terms of 107 IPC. Therefore, the complaint filed is an abuse of process of law. The summoning order passed is also illegal. Therefore, they are liable to

be quashed being an abuse of process of law, and in interest of justice.

Accordingly, both the petitions are accepted and the complaint and ancillary proceedings alongwith summoning order including the charge are ordered to be quashed.

13.7.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No