

CRR-90 of 2017

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

CRR-90 of 2017

Date of Decision: 10.09.2018

Inderjit Singh and others

....Petitioners

Versus

State of Punjab

....Respondent

CRR-96 of 2017

Raj Kaur and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. P.P.S. Duggall, Advocate, for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. A.S. Manaise, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

By this common order, I shall dispose of above-titled two revision petitions filed by accused against order dated 21.10.2016 of the trial Court whereby they have been charge-sheeted under Section 306 IPC and in the alternative under Section 302 read with Section 34 IPC.

Briefly, grandson of the complainant, namely, Kanwarjit Singh was married to petitioner No.3 – Simranjit Kaur (in CRR-90 of 2017) through mediation of petitioners in CRR-96 of 2017. Petitioner No.1 is her real brother and petitioner No.2 is her mother. Due to temperamental differences, there used to remain constant quarrel between them. Consequently, on the date of occurrence, petitioners (in CRR-96 of 2017), brother and mother of petitioner No.3 (in CRR-

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between petitioner No.3 – Simranjit Kaur and her husband Kanwarjit Singh.

According to the prosecution, during discussion, petitioner No.3 – Simranjit Kaur slapped her husband Kanwarjit Singh, on account of which, he got perplexed and by going inside the room, consumed some poisonous substance and died.

Consequently, on the statement of Gurpal Kaur, grandmother of deceased Kanwarjit Singh, FIR No.51 dated 10.04.2011 under Sections 306, 148 and 149 IPC was registered at Police Station, Sadar Tarn Taran, District Tarn Taran. After thorough investigation, police filed final report under Section 173(2) Cr.P.C. against petitioners. Trial Court vide order dated 15.10.2012 (Annexure P-2) framed charge against the petitioners under Section 306 IPC only. However, after examination of two prosecution witnesses, grandmother of deceased moved application under Section 216 Cr.P.C. to also charge-sheet the petitioners alternatively under Section 302 IPC, which was allowed. Accordingly, petitioners were charge-sheeted alternatively under Section 302 read with Section 34 IPC vide impugned order dated 21.10.2016.

Learned counsel for the petitioners *inter alia* contends that after one year and three months, complainant Gurpal Kaur filed a complaint under Section 156(3) Cr.P.C. against the petitioners under Section 302 IPC with distinct facts with several improvements, giving colour of murder to the suicidal death of her grandson Kanwarjit Singh, which according to learned counsel for the petitioners, was dismissed on 16.04.2016. Prior to dismissal of the said complaint, one Pipal Singh alleged eyewitness, approached this Court by way of CRM-M-33727 of 2014 for clubbing of the complaint of Gurpal Kaur with the FIR case. The said petition was dismissed by this Court vide order dated 30.09.2014 (Annexure P-8). The

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Section 156(3) Cr.P.C. and CRM-M-33727 of 2014 for clubbing the complaint with FIR from the trial Court wrongly and illegally succeeded in getting the petitioners charge-sheeted alternatively under Section 302 IPC.

On the other hand, learned State counsel assisted by learned counsel for the complainant pleaded the legality and validity of the impugned order.

Having considered the submissions made by both the sides, this Court finds merit in these petitions for the reasons to follow.

During investigation, complainant did not ever give any supplementary statement levelling allegations of murder of her grandson by the petitioners. From the very beginning, allegations against the petitioners were of abetting the grandson of the complainant to commit suicide. Even none of the prosecution witnesses, during investigation came forward to say that Kanwarjit Singh, in fact, had not committed suicide but was murdered by the petitioners, administering him poison. Consequently, police, after thorough investigation, filed final report under Section 173(2) Cr.P.C. only under Section 306 IPC and petitioners were charge-sheeted accordingly in the year 2012.

Complainant, after a gap of one year and three months, filed a complaint under Section 156(3) Cr.P.C. against the petitioners under Section 302 IPC, which was undisputedly dismissed as no contrary fact has been brought on record by learned State counsel.

It is also not disputed that one of the alleged witnesses of the occurrence, namely, Pipal Singh had approached this Court for clubbing of their complaint under Section 302 IPC with the FIR case through CRM-M-33727 of 2014, which was also dismissed vide order dated 30.09.2014.

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Perusal of impugned order dated 21.10.2016 shows that both the above facts were not brought to the knowledge of the trial Court by the prosecution or the complainant. Therefore, it is evident that impugned order was procured by concealing the factum of dismissal of complaint of the complainant under Section 302 IPC against the petitioners and their petition under Section 482 Cr.P.C. by this Court for clubbing the said complaint with the FIR case.

Consequently, it is also apparent on the record that charge-sheeting the petitioners in the alternative under Section 302 IPC is completely illegal, inasmuch as complainant has turned hostile and there is no *iota* of evidence as on date showing complicity of the petitioners in committing alleged murder of Kanwarjit Singh.

In view of the discussion made above, impugned order is set aside. Accordingly charge-sheet is also set aside. The trial Court is directed to proceed further with the trial against the petitioners under Section 306 IPC only.

Disposed of.

September 10, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No