

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR-2570 of 2018 (O&M)  
Date of Decision: 12.09.2019

Rajni Bala

...Petitioner(s)

Versus

State of Punjab & anr.

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. Harish Goyal, Advocate  
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. K.S. Dadwal, Advocate  
for respondent no.2.

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**HARI PAL VERMA, J. (Oral)**

**CRM-6756-2019 & 38249-50-2018:**

The applications are allowed, as prayed. The documents are taken on record.

**CRR-2570 of 2018:**

Petitioner - Rajni Bala has filed the present revision petition against order dated 12.06.2018 (Annexure P-2) passed by Additional Chief Judicial Magistrate, Rupnagar, whereby the application filed by the petitioner-complainant for committing the present case to the Sessions Court under Sections 328 and 307 IPC has been dismissed.

Learned counsel for the petitioner submits that in view of statement made by Dr. Manjit Singh, PW-9, learned Magistrate was required to commit the case to the Sessions Court, as the offences under Sections 328 and 307 IPC have been made out against the respondent-accused. Dr. Manjit Singh, while appearing as PW-9, in his cross-examination, has specifically stated that he has detected poison during the clinical examination after about 5 hours, which he has mentioned on page 5 of the treatment file. He has further stated that the meaning of question mark on page 5 of the treatment file indicates that the patient was not able to tell the brief history about the problem, therefore, without waiting for anything, the treatment was started immediately, as the patient was semi-conscious and restless. He has argued that once the doctor has made a statement that poison has been detected, the learned Magistrate was required to commit the case to the Sessions Court for trial under Section 328 and 307 IPC.

On the other hand, learned counsel for the respondent has argued that apart from the fact that the application filed by the complainant was not maintainable, the same being not filed by the PP, the statement of Dr. Manjit Singh PW-9 was recorded on 27.02.2018, whereas the instant application was filed by the complainant on 23.04.2018 and by that time, the statement of the accused had already been recorded under Section 313 CrPC. However, despite a well reasoned order having been passed on 12.06.2018, the petitioner-complainant has filed the present revision petition on 06.08.2018 at much belated stage when the complainant has already come to know the defence of the accused.

He has referred to letter dated 20.05.2013 (Annexure R-1) written by DSP, Traffic, District SAS Nagar, wherein it was stated that since Organ Phosphorus have pungent smell and therefore, fatal dose cannot be given to the patient by mixing with milk without his consent or knowledge. Accordingly, he raised queries from PGI as to whether it can be given by mixing Organ Phosphorus in the milk without the consent of the person due to pungent smell and in response thereto, the doctor concerned from PGI has given his answer in "No" vide letter dated 20.06.2013 (Annexure R-2).

I have heard learned counsel for the parties.

The instant application has not been filed by PP and merely his signatures were obtained on the application, whereby he has "forwarded" the same. Thus, the application is otherwise not maintainable, as the same has not been filed by the PP. So far as the statement of Dr. Manjit Singh, PW-9, wherein he has stated that poison was detected, it will be relevant to reproduce the same as under:-

*"XXXX by Sh. Sheikhar Shukla Adv Ld. Counsel for accused. There is no blood report on the file. When the patient was admitted in the hospital there was no suspicion about the poison. It is correct that even patient did not disclose about the poison given to her when she gave the history at the time of admission. It is correct that there is no report on the case history file as to what kind of poison was and how it was detected. It is correct that so long as the patient remained admitted in the hospital she never gave any history of poison being administered to her. However, doctor detected the poison during the clinical examination after about 5 hours. It is mentioned on page no.5 of the treatment file. The meaning*

*of question mark on page no.5 of treatment file means that the patient was not able to tell the brief history about the problem and without waiting for anything the the treatment was started to immediately as the patient was semi-conscious and restless stage. The word semi-conscious is written on page no.5 opposite to the question mark. There are signatures of Dr. Naresh on the bottom of page no.5.*

*Q: After seeing the condition of the patient whether any test was recommended or conducted or not'?*

*Ans. The treatment was started immediately as the patient came with the history of lose-motion and vomiting and it is not mentioned in the record as to any test was conducted or not.*

*The duration of the diarrhea is not separately mentioned, however, as per the record the patient came at 7:00 PM and she told that she was suffering from diarrhea since morning. I treated the patient personally on 1.10.2012 when I was on round and page no.13 of the treatment file bears my signature. I also discharged the patient. At the time of my round the patient was not complaining of pain and she was fine. On page no.13 of the treatment file at point mark A the words complaint of pain lower abdomen is not written by me. I had round on 1.10.2012 and above mark A I put my note OPC poisoning and at Mark A the handwriting is of some other doctor who might be on round. The patient was discharged on 2.10.2012 but the time is not mentioned on the treatment file. Volt. The same might be on the discharge slip. It is wrong to suggest that a false record has been prepared. It is wrong to suggest that I am deposing falsely."*

Thus, the statement of Dr. Manjit Singh is very categoric, wherein he has stated that the patient was very much conscious and she herself had told him that she is suffering from diarrhea since morning and she was treated accordingly. At no point of time, she has shown any

symptom, whereby the doctor could form an opinion that poison was administered to her. Moreover, the report received from Dr. Ashish Bhalla, PGIMER, Chandigarh further substantiate the case of the respondent-accused, wherein in response to questions posed by the DSP, SAS Nagar as to whether it is possible to give fatal dose Organ Phosphorus by mixing in the milk, the doctor concerned from PGI, Chandigarh has answered “No”. Annexure R-1, whereby DSP, Traffic, SAS Nagar has written a letter to the Superintendent, PGI, Chandigarh to answer the questions, as raised by DDA, Legal, reads as under:-

- “1) Can it be given by mixing Organ Phosphorus in the milk without the consent of person due to pungent smell?*
- 2) Is it possible to give fatal dose Organ Phosphorus by mixing in the milk?”*

In response to the aforesaid questions, Dr. Ashish Bhalla, Additional Professor, PGIMER, Chandigarh has answered these two questions as “No” vide his letter dated 20.06.2013 (Annexure R-2).

Therefore, in absence of any evidence to support the case of the petitioner, this Court is not inclined to interfere in the matter.

Accordingly, the present revision petition is dismissed.

September 12, 2019  
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( HARI PAL VERMA )  
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No