

**CRM-M-9470-2017 and
CRM-M-24799-2017**

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

Date of Decision: 16.01.2020

1. CRM-M-9470-2017

Harnam Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

AND

2. CRM-M-24799-2017

Harnam Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Argued by: Mr. Fatehjeet Singh, Advocate,
for the petitioner (in both the petitions).

Mr. M.S.Nagra, AAG, Punjab.

Ms. Ramandeep Kaur, Advocate for
Mr. Sumeet Goel, Advocate,
for respondent No.4-CBI in CRM-M-9470-2017.

Mr. K.B.Raheja, Advocate,
for respondent No.5 in CRM-M-9470-2017.

HARNARESH SINGH GILL, J.

This order shall dispose of the above mentioned two petitions
as the same have arisen out of one and the same FIR.

**CRM-M-9470-2017 and
CRM-M-24799-2017**

CRM-M-9470-2017 has been filed for issuance of directions to respondents No.1 to 3 to hand over the investigation of FIR No.24 dated 23.02.2017, under Sections 302/34 IPC, registered at Police Station City Jalalabad, District Fazilka, to some independent investigating agency like CBI or to some senior police official as allegedly no fair, free and impartial investigation is being conducted by the concerned police officials, and to direct respondents No.2 and 3 to protect the life of the petitioner and his family members at the hands of the private respondents, who are roaming freely despite registration of the FIR.

CRM-M-24799-2017 has been filed for issuance of direction to the respondents not to harass or pressurize the petitioner and his family members for compromising the matter with the accused in the aforementioned FIR.

For the facility of reference, the facts are being taken from CRM-M-9470-2017.

It is the case of the petitioner that in the year 2011, his son-Balkar Singh got married to respondent No.5-Parveen Rani and out of the said wedlock, two sons were born. There had been some matrimonial discord between Balkar Singh and respondent No.5. On 21.02.2017, Balkar Singh and respondent No.5 had a little matrimonial scuffle and under the influence of her brother-Malkit Singh, she had left her matrimonial home and gone to her parental home. On 22.02.2017 at about 11.30 A.M., Balkar Singh went to the house of the private respondents to bring his wife back due to love and affection for her and further for the reason that his two sons

**CRM-M-9470-2017 and
CRM-M-24799-2017**

had been missing their mother. Unfortunately, he never came back and he was murdered by the private respondents and Malkit Singh at their home. Upon the complaint of the petitioner, the aforesaid FIR had been registered. However, the private respondents have not been arrested till date nor they have applied for or granted bail by the Court. They are, thus, roaming freely.

On 04.05.2017, notice of motion was issued. In pursuance thereof, respondents No.1 to 3 filed the reply stating that investigation in this case was conducted by the Deputy Superintendent of Police, Jalalabad. It is further stated in the reply that as per the investigation, Balkar Singh had consumed some intoxicated substance on account of his matrimonial dispute with his wife-respondent No.5 (accused) and, therefore, Sections 302/34 IPC were deleted and Section 306 IPC was added. Resultantly, Malkit Singh, Mehal Singh, Jindo Bai and Veero Bai were found to be innocent. It is mentioned in the report annexed with the reply that a joint statement of some respectable was recorded and as per their version, when Balkar Singh came to his in-laws' house, respondent No.5 was alone at home and at that time, he had already consumed some intoxicated substance and he told her that he had consumed poison and he would not live any more and requested her to take care of the children. Thereafter, he lay on the cot. On seeing his condition, respondent No.5 had raised her voice and called her father-Mehal Singh and brother-Malkit Singh, who were working in the nearby fields. He had been taken to Vairo Ke Hospital, where the doctors declared him as dead.

Respondent No.4-CBI has also filed the reply stating that as per

**CRM-M-9470-2017 and
CRM-M-24799-2017**

the law laid down by the Hon'ble Supreme Court in the case of *State of West Bengal Vs. Committee for Protection of Democratic Rights West Bengal and Others* (2010) 3 Supreme Court Cases 571, the courts must bear in mind certain self-imposed limitations, which can only be used with great caution.

Respondent No.5 has also filed the reply stating that the investigation of the case has already been conducted by the Deputy Superintendent of Police and now the matter is being enquired into by the Superintendent of Police (Investigation). Even if the version of inquiry is accepted (though not admitted so far) that Balkar Singh had committed suicide due to the matrimonial dispute, it does not come within the definition of abetment as contained in Section 107 IPC, but the police had implicated respondent No.5 under Section 306 IPC, which shows that the police is helping the petitioner. In fact, the answering respondent had been turned out from the matrimonial home by the deceased and his family and she had been residing in her parental home where Balkar Singh (since deceased) had come after consuming some poisonous substance and fainted. The family of respondent No.5 had informed the petitioner's family and brought Balkar Singh to the doctor where he had been declared as dead. It is further mentioned that mother of respondent No.5 had informed the petitioner that Balkar Singh had gone out of the house after quarreling which itself shows that Balkar Singh had quarrelled with his family and on account of that, he might have consumed some poisonous substance. Had there been some foul play in the death of Balkar Singh, he would have

**CRM-M-9470-2017 and
CRM-M-24799-2017**

received injury, but no injury has been mentioned in the post-mortem report which falsifies the allegations of the petitioner.

I have heard the learned counsel for the parties as well as the learned State counsel and gone through the case file.

It is a case where respondent No.5 had left her matrimonial home and gone to her parents as her husband-Balkar Singh used to maltreat her and many times, her father-in-law (petitioner) had taken upon himself the responsibility and brought her back from her parental home. When the acts of Balkar Singh (husband) became unbearable, she again went to her parents. Since Balkar Singh used to remain intoxicated, he went to his in-laws' house and consumed some intoxicated substance and by the time, he was taken to the hospital and he had already passed away. The FIR was initially registered under Section 302 IPC, but after investigation, offence under Section 306 IPC was added and Sections 302/34 IPC were deleted.

To my mind, it is not appropriate for this Court to direct the investigation agency to conduct the investigation in a particular manner.

In this regard, reference is made to the judgment of Hon'ble the Apex Court rendered in ***D. Venkatasubramaniam and Ors. Vs. M.K.Mohan Krishnamachari and Anr.*** 2009(4) R.C.R. (Criminal) 318, wherein it has been held as under:

“19. It is worthwhile to notice that the directions in the said case were issued by the High Court of Bombay in writ petition filed in public interest in which a grievance has been made that though the Provident Fund Commissioner has lodged a complaint against several Directors, the investigation has made no

**CRM-M-9470-2017 and
CRM-M-24799-2017**

progress on account of the fact that the Directors were Government servants and enjoying considerable influence. The High Court issued series of directions which were challenged in this Court contending that the High Court was in error in exercising jurisdiction under [Article 226](#) of the Constitution resulting in unjustified interference of the investigation of the case. It is, therefore, clear that if the High Court, in exercise of its power under [Article 226](#) of the Constitution of India, cannot direct the investigating agency to investigate the case in accord with its views as that would amount to unwarranted interference, equally no such directions could be issued in exercise of inherent jurisdiction under [Section 482](#) of the Code.

20. *Tested in the light of the principles aforesaid, the impugned order, in our considered opinion, must be held to be an order passed overstepping the limits of judicial interference. It was observed by this Court on more than one occasion, that even in Public Interest Litigation proceedings, appropriate directions may be issued and the purpose in issuing such directions is essentially to ensure performance of statutory duty by the investigating agency. The duty of the Court in such proceedings is to ensure that the agencies do their duties in compliance with law. The inherent power of the High Court is saved to interfere with the proceedings pending before a Criminal Court if such interference is required to secure the ends of justice or where the continuance of the proceedings before a Court amounts to abuse of the process of Court. Such a power under [Section 482](#) of the Code is always*

**CRM-M-9470-2017 and
CRM-M-24799-2017**

*available to the High Court in relation to a matter
pending before a criminal Court.”*

In view of the above, CRM-M-9470-2017 is dismissed.

However, CRM-M-24799-2017 is disposed of with a direction
to the respondents not to harass or put any pressure or coercion upon the
petitioner and his family members thereby compelling them to compromise
the matter with the accused.

16.01.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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