

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-315-2017 (O&M)

Date of Decision: 04.02.2020

Sarbati

.. Petitioner

Vs.

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sushil Kumar Verma, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Shalender Mohan, Advocate
for respondent Nos.2 to 5.

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Manoj Bajaj, J.
CRM-28233-2019

Application is allowed, subject to all just exceptions.

Annexures P-3 and P-4 are taken on record.

CRR-315-2017 (O&M)

Complainant Sarbati has preferred this revision petition to challenge the order dated 04.01.2017 passed by the ld. Addl. Sessions Judge, Sirsa in Sessions case No.203 of 2016 in case FIR No.349 dated 17.11.2015 under Sections 306 and 201 IPC read with Section 34 IPC, Police Station Ellenabad, whereby the charges against the private respondent Nos.2 to 5 were framed. According to the complainant, the impugned order suffers from grave illegality and impropriety as no charge for the offence punishable under Section 302 IPC was framed against the accused persons.

The facts in brief leading to the petition are as under:

That a written complaint was given by complainant Sarbati to the police, wherein it was alleged that her son Raghubir aged 30 years was married to Saroj d/o Ram Sarup Sawami about 7 years back and two daughters, namely, Khushi (5 years) and Chahat (2 years) were born. Approximately 4 years back, Saroj took Raghubir to Ellenabad by giving allurements of earning good money, where her parental house was situated. Raghubir had started running a shop at Panchmukhi Chowk Ellenabad after arranging money from his property and relatives. It was further narrated that Saroj prevented Raghubir to meet his old parents and about 7 days back, when he was not keeping good health, he had called his parents and after he recovered, he went to Sirsa and Nohar. Upon his return, his wife Saroj started abusing him and threatened her parents-in-law. This incident took place on 27.09.2015. Raghubir tried to pacify Saroj, but she pushed him by catching hold of his hair and ears and the mother-in-law was beaten by iron pipe (phukni). Saroj also called her parents and brother and asked them that these three had given beatings to her. On 28.09.2015, Raghubir had gone to village Band Mandori to stay with his parents and his friends also insisted him for stay at village Band Mandori. However, upon repeated calls from Saroj, he left for Ellenabad. On 29.09.2015 at about 10:30 a.m., the dead body of Raghubir was brought by his father-in-law Ram Sarup, Jai Chand, Ram Partap (both uncles of Saroj), Sant Lal, Surja Ram, Vinod, Ashok Saraje, other co-villagers, etc to Band Mandori. On receiving this news, complainant and her husband turned unconscious. According to the complainant, her nephew Krishan, son-in-law Mahavir and other villagers refused for cremation and sought for conducting the post mortem, however, the dead body was cremated. According to the complainant, the victim was

murdered by Saroj, Ram Sarup, Ramesh, Roshani. On these broad allegation, the present FIR was registered.

After completion of investigation, the final report was submitted by the police and after considering the same, the trial Court proceeded to frame the charge against the accused persons for the offences punishable under Sections 306, 201 read with Section 34 IPC, vide order dated 04.01.2017. A formal charge-sheet was also drawn on the same date and the accused persons had pleaded not guilty and claimed trial.

Learned counsel for the petitioner contends that the order is bad in law as the Court ought to have framed the charge for the offence punishable under Section 302 IPC. According to him, the victim was beaten by the accused persons and it resulted into his death, and therefore, the impugned order warrants interference by this Court. He contends that the conduct of the accused in cremating the dead body hurriedly itself indicates that they eliminated the evidence of murder and the trial Court has ignored this material aspect while framing the charges. Learned counsel for the petitioner has placed reliance upon the report of the DSP dated 20.10.2015 to contend that as per his finding/report, offence punishable under Section 302 IPC is made out (Annexure P-4). According to him, no prejudice would be caused to the accused, if they are charged for the offence punishable under Section 302 IPC.

On the other hand, learned counsel for accused/respondent Nos.2 to 5 submits that as per prosecution itself the victim voluntarily ended his life and there is no evidence at all to suggest that the victim was murdered. According to him, if it was so, there was no reason for the accused to carry the dead body of victim to his parental village for

cremation. It is argued that the complainant and her other relatives along with co-villagers attended the cremation without any objection. He submits that as per the material on record, there is nothing to indicate that the charge punishable under Section 302 IPC is made out and, therefore, the petition deserves to be dismissed.

Learned State counsel has also argued on the similar lines to contend that the statements of various persons from both the villages Ellenabad and Bhan Mandori, were recorded during investigation and no evidence in respect of the murder of the victim was found, as it was a case of suicide by hanging.

After hearing the learned counsel for the parties, this Court finds that the trial Court has examined the material on record carefully while framing the charges. The arguments advanced by the learned counsel for the complainant are not substantiated with any material much less establishing prima facie commission of offence under Section 302 IPC. It is not disputed by learned counsels that post mortem of the deceased was not conducted and, therefore, the argument of commission of offence punishable under Section 302 IPC is not substantiated. Reliance placed by the learned counsel for the petitioner upon the enquiry report by DSP Ellenabad is misconceived, as the same was prior to the registration of the FIR and, therefore, after registration of the FIR, a thorough investigation was conducted and after completion of the investigation, the final report has been considered by the trial Court. Even the final report filed by the police after completion of investigation has not been placed on record.

In view of above, this Court does not find any material illegality or impropriety in the impugned order. Resultantly, no ground is

made out for interference by this Court.

The petition is dismissed.

04.02.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No