

CRM-M-40666-2021

Date of Decision:14.12.2021

Saijal Sood

.....Petitioner

Vs.

State of Punjab

....Respondent

CRM-M-40900-2021

Naveen Kumar

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Sidhant Vermani, Advocate,
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

None for the complainant (in CRM-M-40900-2021)

AMOL RATTAN SINGH, J. (Oral)

CRM-M-40900-2021

On November 03, 2021, the following order had been passed by
this court:-

“Case heard via video conference.

Pursuant to the last order passed, an affidavit of Dr. Sukhchain Singh Gill, Commissioner of Police, Amritsar City, dated 28.10.2021, has been filed, which is ordered to be taken on record, a copy thereof already having been received by learned counsel for the petitioner.

It is to be noticed that learned counsel for the complainant, on the last date of hearing, had stated (as recorded in the order dated 07.10.2021), that firstly, if the telephonic conversation between the petitioner and the complainant was to be heard, the petitioner would be seen to have threatened the complainant, he being a police official himself.

He had further submitted that the allegation that the suicide note itself is forged and fabricated, would be belied by the suicide note that was found to have been written by the deceased, and as would be visible from the CCTV footage, which the police were not accepting.

Consequently, the complainant had been directed to meet the Commissioner of Police, Amritsar, with him to give all material with him to the Commissioner.

Now, as per the affidavit of the Commissioner, as regards the video recording that the deceased is stated to have made, the deceased was seen writing something on a paper which most probably was the suicide note, while also taking a tablet to commit suicide; and that the admitted handwriting of the deceased was being obtained and would be sent to the FSL for comparison with the handwriting in the suicide note.

As regards the telephonic conversation as had taken place between the petitioner and the complainant (father of the deceased), a transcript thereof has been annexed as Annexure R-1 with the affidavit of the Commissioner, a perusal of which would show that the petitioner is time and again threatening/telling the complainant that he would institute a defamation suit against him 'for a sum of Rs.50 lakhs', for which he had already spoken to his lawyer, in view of the fact that the deceased (allegedly), before his death, was defaming the niece of the petitioner, with whom he had earlier been engaged. (Obviously no comment on the correctness or otherwise of any of the allegations made is being commented upon by this court at this stage, with only what is shown in the transcript being referred to).

Though at one point an abusive word is also seen to have been used by the petitioner at the end of the conversation, and he has stated that he would come and arrest all four persons and would see them in court, however, learned counsel for the petitioner submits that the said conversation itself is seen to be dated 15.03.2021, and the deceased having committed suicide on 10.09.2021, i.e. 6 months later.

In my opinion without making any comment on the actual merits of the case at this stage the petitioner should be directed to join investigation; and if, upon him so joining (within one week), he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned *Ilaqa* Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this court.

It is to be noticed by this court that this order has been passed by this court despite the fact that the Commissioner in his affidavit has stated that the custodial interrogation of the petitioner is required.

Naturally, if the petitioner joins investigation and does not cooperate with what is demanded to be known from him, a gazetted officer will file another affidavit stating as to in

what manner he is not co-operating and whether his custodial interrogation is required (even after he joins investigation), or not.

Adjourned to 14.12.2021.”

Today, learned State counsel submits that though no gazetted officer has filed an affidavit as regards whether the petitioners' custodial interrogation is required or not, however, as per his instructions from the investigating officer, i.e. ASI Lakhwinder Singh, the petitioner, in this petition, as also in the accompanying petition, i.e. CRM-M-40666-2021, having joined investigation their custodial interrogation is not required.

That being so, even in terms of the ratio of the judgment of the Supreme Court in M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, without making any comment on the actual merits of the case, this petition as also the accompanying petition, are allowed, with the orders dated 29.09.2021 (in CRM-M-40666-2021) and 03.11.2021 (in CRM-M-40900-2021), made absolute on the same terms and conditions.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

(A photocopy of this order be placed on the file of the connected case).

December 14, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO