

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

251

CRM-M-14677-2017 (O&M)

Date of decision: 20.12.2022

SUKHWINDER SINGH

....Petitioner(s)

Versus

SUKHPAL KAUR AND ORS.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Baltej Singh Sidhu, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing of order dated 30.01.2016 passed by learned Judicial Magistrate Ist Class, Dhuri whereby the complaint filed by the petitioner was dismissed and order dated 19.07.2016 passed by learned Additional Sessions Judge, Sangrur, whereby revision preferred by the petitioner against the order dated 30.01.2016 had also been dismissed.

Facts in brief necessary for adjudication of the present petition are that the complainant-petitioner was running a photo studio under the name and style of Sukhi Studio at village Kila Hakima for the last 10 years. Petitioner alleged that he and respondent No.1 fell in love and remained in relationship for about 09 years. He added that respondent Nos.2 to 10 are relatives/associates of the family of respondent No.1. Complainant-petitioner alleged that on 17.08.2014, respondent No.3 Kala Singh came to his shop and told him that Sukhpal Kaur had called him at her house and he should go immediately as she was alone at her home. Petitioner went to the house of respondent No.1 where she gave him water and then served lemon juice which he consumed. After some time the petitioner fainted and felt problem in breathing because respondent No.1 allegedly gave him

poison. He raised alarm to save his life. Respondent No.1 also raised hue and cry and on hearing noises, neighbours gathered there. Complainant-petitioner claimed that in the meantime, other accused also entered the house and started beating up him mercilessly. Petitioner's sister-in-law Lakhwinder Kaur @ Rimpay whose parents belong to village Alal reached the spot and witnessed the entire occurrence. She telephonically informed the family of petitioner. Thereafter, accused persons threw the petitioner in a vehicle and beat him up in the moving vehicle. They stopped their vehicle at Ranike bridge and again started beating him up. In the meantime, Sarpanch Kala Singh, Ex-Sarpanch Avtar Singh, Mohana Singh member panchayat, Sikander Singh and Joginder Singh brother of complainant reached the spot who saved the complainant-petitioner from the accused and thereafter, his brothers got him admitted in civil hospital, Sangrur. But, due to his serious condition, he was shifted to Sibia Hospital, Sangrur, where he was medically examined by the doctors and discharged after four days on 20.08.2014.

Learned counsel for the petitioner submits that the Courts below have wrongly dismissed the complaint filed by the petitioner, on the ground that petitioner could neither prove the alliance with respondent No.1 nor allegation of poison or beating up by the accused, thus held that the link was missing. Learned counsel submits that the observations are totally illegal and erroneous as at the stage of summoning, only prima facie case is to be seen and there was sufficient evidence available on the file.

He further submits that the Lower Appellate Court also wrongly dismissed the revision on the ground that DDR No.12 dated 18.08.2014 which had been recorded on the statement of Angrej Singh, father of the petitioner, falsifies his version. However, the statement recorded by the Police fortifies his version

regarding the occurrence and his admission to Civil Hospital Sangrur, then his shifting to Sibia Hospital, Sangrur. Thus, the findings recorded by the Revisional Court are totally contrary to the record of the case. He thus prays that the orders impugned by the petitioner in this present petition deserve to be quashed.

Heard.

It is apposite to refer to the order dated 30.01.2016, passed by learned Judicial Magistrate 1st Class, Dhuri, the relevant of which reads thus:-

“9. I have heard the ld. counsel for the complainant and have perused the record carefully. From the gamut of evidence, it percolates that Ex.C1 rapat no.12 dated 18.08.2014 which contains the detail of statement suffered by complainant's father namely Angrej Singh, reveals that Angrej Singh had stated before the police that his elder son's in-laws live at village Alal and complainant Sukhwinder Singh had gone to visit them where he had consumed some poisonous substance and Angrej Singh's daughter-in-law namely Rimpny had telephonically informed him that health of complainant was deteriorating. So, Angrej Singh reached village Alal alongwith panchayat and from there, he got complainant admitted to civil hospital, Sangrur and later shifted him to Sibia Hospital, Sangrur. Lakhwinder Kaur @ Rimpny in her statement simply stated that she had seen the accused beating; up the complainant and throwing him out of their house and that at that time, complainant seemed to be under the influence of some poisonous substance. Lakhwinder Kaur who is alleged eye witness' did not make even an iota of mentioning that complainant was forcibly taken into a vehicle by the accused persons as alleged in the complaint. CW-3 Dr. Prabhjot Singh Sibia proved the discharge slip of the complainant from Sibia Health Care, Sangrur and also proved his endorsement on police applications moved on 18.08.2014 and 19.08.2014 to obtain the fitness of complainant to suffer statement. CW-4 Dr.Sanjiv Aggarwal categorically stated that complainant had been admitted as case of alleged poisoning. Surprisingly, before the same could be confirmed by the civil hospital, Sangrur, the family of complainant made request to the authorities of civil hospital, Sangrur that complainant be referred to Sibia Hospital, Sangrur, which shows that doctor of civil hospital, Sangrur, had not confirmed the case of poisoning. Testimony of Dr. Sanjiv Aggarwal reveals that poisoning of complainant was not confirmed rather it was case of alleged poisoning. Surprisingly, CW-5 Avtar Singh and CW-6 Sikander Singh stated that on 17.08.2014, they were called up by Lakhwinder Kaur @ Rimpny telephonically and they reached

Ranike drain bridge where accused were beating up the complainant. However, Lakhwinder Kaur @ Rimpay had nowhere mentioned in her statement that she had informed CW-5 and CW-6 telephonically, rather, she categorically stated that she had informed her in-laws telephonically. It is pertinent to mention here that complainant's father Angrej Singh was neither cited as witness in the list of witnesses appended with the complaint nor was complainant's brother/husband of Lakhwinder Kaur cited or examined as witness in this case. Complainant has simply reiterated the allegations levelled in the complaint. However, the testimony of complainant's witnesses do not corroborate the report submitted by the police under section 202 Cr.PC. where it has been mentioned that complainant was interested in marrying accused no.1 whose family did not approve the alliance and no alleged occurrence of poisoning or beating up the complainant by the accused side was reported. Clearly, in view of missing link between the testimony of complainant, alleged eye witness Lakhwinder Kaur who not once mentioned that accused persons had loaded the complainant in a vehicle while beating him up and the claims of CW-5 and CW-6 that Lakhwinder Kaur had telephonically called them at which they reached canal bridge, Ranike and saw the accused persons beating up the complainant, is contrary to the testimony of Lakhwinder Kaur who stated that she had telephonically informed her in-laws. Also, there is no mention of alleged vehicle present at the canal bridge, Ranike. The complaint seems to have been actuated out of refusal by accused no.1 and her family members to comply to the wishes of complainant to marry accused no.1.

10. In view of reasons aforesaid, this court is of the considered opinion that story put forth by the complainant is improbable and there are no sufficient grounds for proceeding against the accused under sections 307, 323, 506, 148, 149 IPC. Hence, the instant complaint is dismissed. File be consigned to the record room under rules”

Likewise, it is required to make a reference to the order dated 19.07.2016, passed by Additional Sessions Judge, Sangrur dismissing the revision petition filed by the petitioner, which reads thus:

“ It is reiterated that version of the complainant that he was forcibly removed to Ranike Canal Bridge in a vehicle by the accused is also contrary to the version narrated in DDR No.12 Ex.C1 and testimony of CW2 Lakhwinder Kaur. Moreover, CW2 Lakhwinder Kaur merely testified that she informed her father-in-law at Bahadurpur on telephone regarding the occurrence. This fact could have been corroborated by Angrej Singh father of the complainant. Surprisingly, he was neither cited as witness in the list of

witnesses nor was examined during recording of preliminary evidence. Nothing is mentioned regarding the vehicle in which accused was allegedly removed the complainant from the place of occurrence to the Canal Bridge of Ranike in the complaint and in the testimony of the complainant.

“8. Before parting with my discussion above, it is also pointed out that the learned trial Court sought the report of the concerned Police Station under Section 202 CrPC, wherein it is alleged that complainant was interested in solemnizing the marriage with accused Sukhpal Kaur. But family members of Sukhpal Kaur did not agree to their alliance. It is categorically mentioned in the report that no alleged occurrence of poisonous substance or beating took place on 17.08.2014. Though report of police under Section 202 Cr.PC can not be made the ground to disbelieve the version of the complainant, but keeping in view the fact that testimony of the complainant is neither reliable nor trustworthy and is full of discrepancies and irregularities, it is held that learned trial Court rightly and correctly dismissed the complaint, finding no sufficient ground to summon the accused under section 307,323,506,148,149 of Indian Penal Code.

9. Accordingly, in the light of my discussion above, it is held that order passed by learned trial Court is sustainable under the provisions of law and does not warrant any interference. Hence, finding the present revision being devoid of merits is hereby dismissed. Trial Court file be returned. Revision file be consigned to record room after due compilation.”

The petitioner having already availed of his remedy by filing a criminal revision petition, though unsuccessfully before the learned Additional Sessions Judge, Bhiwani, as such this petition as per Section 397(3) Cr.P.C. would amount to a second revision petition under the guise of petition under Section 482 Cr.P.C. Hon’ble The Supreme Court of India in the cases of **Krishnan vs. Krishnaveni and another** 1997(4) SCC 241, and **Shakuntala Devi and others vs. Chamru Mahto and another**, 2009(2) SCC (Cri) 8, held that in appropriate cases in order to meet the ends of justice or to prevent abuse of the process, the High Court is preserved with inherent power, which should be exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings. The object of the introduction of sub-section (3) in Section 397 was to prevent a second revision so as to avoid frivolous litigation,

but, at the same time, the doors to the High Court to a litigant who had lost before the Sessions Judge were not completely closed and in special cases the bar under Section 397(3) could be lifted.

Having considered the judgments of the Courts below and the submissions of the learned counsel for the parties, there appears to be no special circumstance in this case, as required as per the law laid down in the judgments referred to above, which could persuade this Court to grant relief in the present case, in exercise of the inherent power under Section 482 Cr.P.C.

In view of the foregoing discussion, this Court finds no illegality or perversity in the orders passed by the Courts below warranting any intervention. As such, the present petition *sans* merit and is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

December 20, 2022

S.Sharma(syr)

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