

**226/1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-3048-2020
Decided on : 19.01.2023

Vikram Singh @ Bikram Singh
@ Bikramjit Singh and others

..... Petitioners

Versus

Rajwant Kaur

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. G.S.Bajaj, Advocate
for the respondent.

Manjari Nehru Kaul, J.(Oral)

Petitioners are impugning the order dated 18.12.2019 (annexure P-8) vide which their revision petition to set aside the order dated 13.09.2018 (Annexure P-7) whereby they had been summoned to face trial for commission of offences under Sections 302, 342, 457, 380, 148 and 149 IPC in Criminal Complaint bearing No.80 dated 03.10.2017 (Annexure P-6), was dismissed. A further prayer has also been made for quashing of aforesaid complaint dated 03.10.2017 (Annexure P-6).

Learned counsel appearing for the petitioners has urged that the interim orders dated 18.12.2019 and 13.09.2018 (Annexures P-8 and P-7 respectively) have been passed without appreciating the facts in their right perspective. Learned counsel has contended that the allegations levelled in the complaint (Annexure P-6) reveal that only bald allegations have been

levelled therein, which do not even *prima facie* make out a case for summoning the accused under Section 302 IPC. It has been further contended that after respondent lodged the FIR in question, the matter was thoroughly investigated into and vide enquiry report dated 27.04.2016 (Annexure P-2), it was concluded that it was a case of abetment of suicide punishable under Section 306 IPC. Hence, it was apparent that the impugned orders had been passed by ignoring the police report as well as the material, which was part of that report.

Per contra, learned counsel for the respondent has strongly controverted the submissions made by the counsel opposite. It has been contended that the respondent from the very beginning had been alleging that there was collusion between the investigating agency and the petitioners-accused and that is why, the investigating agency had recommended the registration of FIR under Section 306 IPC instead of Section 302 IPC. Learned counsel has argued that if at all any case was made out against the petitioners-accused, it was only under Section 302 IPC, which fact was apparent from a bare perusal of the injuries detailed in the postmortem report (Annexure P-3) of the deceased. Learned counsel has also argued that the Magistrate was not bound by the police report and thus, the summoning of the petitioners-accused under Sections 302, 342, 457, 380, 148 and 149 IPC could not be faulted with as it had been passed after due application of mind and appreciation of the material on record.

Heard learned counsel for the parties and perused the relevant material available on record.

It needs to be reiterated that if on an application of judicial

mind to the allegations made in the complaint and other material on record, the Magistrate finds sufficient ground for proceeding against the accused, then process can be issued under Section 204 Cr.PC. At this stage, only a *prima facie* satisfaction has to be arrived at by the Magistrate qua the commission of the offence(s) alleged and not whether there exists sufficient grounds for the conviction of the accused.

In the present case, when the averments made in the complaint are seen in the light of the injuries suffered by the deceased Captain Singh, as mentioned in the postmortem report (Annexure P-3), there indeed was sufficient ground to proceed against the petitioners-accused and the trial Court cannot be faulted with for summoning them to face trial under Section 302, 342, 457, 380, 148 and 149 IPC.

It would also be relevant to point out here that a Court is not bound to blindly accept the conclusions of investigating agency in its police report. It is the duty of a Court to apply its judicial mind on the material on record and thereafter proceed in accordance with law uninfluenced by any of the recommendations or conclusions of the investigating agency.

Therefore, in the facts and circumstances, *prima facie* there existed sufficient grounds for proceeding against the petitioners.

Whether the allegations levelled are false or not would be a matter of trial, which cannot be delved into either by this Court or by the Magistrate at this stage. Since the Magistrate has rightly exercised its discretion while issuing process, this Court would loathe to interfere much less examine the authenticity of the allegations levelled by the respondent-complainant.

As a sequel to above, this Court does not deem it appropriate to invoke its inherent powers vested under Section 482 Cr.PC for quashing the complaint as well as summoning orders (Annexures P-8 and P-7 respectively) qua the petitioners. Accordingly, the present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

19.01.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No