

CRM-M-11076-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

121

CRM-M-11076-2023 (O&M)
Date of Decision:-19.04.2023

Jasmail Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON’BLE MR. JUSTICE ALOK JAIN

Present: Mr. Ram Kumar Chauhan, Advocate for the petitioners.

ALOK JAIN, J. (Oral)

CRM-16075-2023

Application is allowed as prayed for.

Annexure P-8, is taken on record.

CRM-M-11076-2023

The present petition is for quashing of FIR No. 139 dated 17.08.2021, registered under Sections 306 and 34 of the Indian Penal Code, 1860, at Police Station Bullowal, District Hoshiarpur (Annexure P-1).

Learned counsel for the petitioners submits that the petitioners are the sister and brother-in-law of the husband of the daughter of the complainant. His opening arguments is that the present FIR is devoid of any merit, as both the girl and the boy i.e. the brother of petitioner No.2 and the daughter of the complainant are in Canada. He does not deny the fact that

CRM-M-11076-2023 (O&M)

there is a matrimonial discord between the husband and wife in Canada, which led to the divorce in Canada.

Learned counsel for the petitioners submits that, as per the allegations levelled in the FIR, there is no instigation attributed to the petitioners, for the reasons that there is no suicide note and no allegation of any harassment by the petitioners.

On the strength of the above, learned counsel for the petitioners relies upon the judgment passed by the Hon'ble Supreme Court of India in case titled as **"Gurcharan Singh Vs. State of Punjab, 2020 CrI. L. R. (SC) 954"** which is reproduced as under:-

"To submit that mens rea has to be established. To prove the offence of abetment, as specified under Section 107 of the IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. However, what transpires in the present matter is that both the trial Court as well as the High Court never examined whether appellant had the mens rea for the crime, he is held to have committed. The conviction of appellant by the trial Court as well as the High Court on the theory that the woman with two young kids might have committed suicide, possibly because of the harassment faced by her in the matrimonial house, is not at all borne out by the evidence in the case. Testimonies of the PWs do not show that the wife was unhappy because of the appellant and she was forced to take such a step on his account".

CRM-M-11076-2023 (O&M)

Learned counsel for the petitioners relies on various judgments of the Hon'ble Supreme Court of India as detailed below:

“M. Arjunan Vs. State Rep. By its Inspector of Police, 2019(5) R.C.R. (Criminal) 269”.

“Gurcharan Singh Vs. State of Punjab, 2017(1) R.C.R. (Criminal) 118”.

“Ude Singh and Ors. Vs. State of Haryana, 2019(5) R.C.R. (Criminal) 971”.

I have heard learned counsel for the petitioners at length and perused the record. A perusal of the challan categorically records that the petitioners visited the house of the complainant and had threatened the deceased that the relationship of your daughter has been broken by them and they have kept the vehicle given to the boy and further threatened them that your husband, son and daughter would not be spared and your life would be made a hell. The challan has been filed after thorough investigation and it is too pre-mature to record a finding that the petitioners are not guilty of the alleged offence. The fact that there is no suicide note will be considered by the Court below during trial and the circumstantial evidence will have to be looked into by the trial Court and at this stage, it cannot be stated that the present FIR is an abuse of process of law. Another fact which strikes the mind of the Court is that the petitioners had earlier also filed a quashing petition and in which this Hon'ble Court vide order dated 03.12.2021 passed the following order which is reproduced as under:-

“After arguing for some time, when this Bench was not inclined with the submissions made by learned counsel for the

CRM-M-11076-2023 (O&M)

petitioners, a prayer was made for withdrawal of the instant petition.

Dismissed as withdrawn”.

In light of the above, merely because the challan has been presented, and that too, wherein, specific allegations have been made against the petitioners, it is not a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to quash the FIR.

Accordingly, the present petition stands dismissed.

(ALOK JAIN)
JUDGE

April 19, 2023
Parul

Whether speaking/reasoned:-	Yes
Whether Reportable:-	Yes