

In the High Court of Punjab and Haryana at Chandigarh
105

CRR-1747 of 2022 (O&M)

Date of Decision: 13.02.2023

Akram

---Petitioner

versus

State of Haryana and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Tushar Gautam, Advocate
for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

The petitioner is seeking setting aside of order dated 5.7.2022 whereby Additional Sessions Judge, Nuh has dismissed application of the petitioner seeking summoning of respondents namely Usman and Siraj under Section 319 Cr.P.C.

The brief facts of the case are that on 18.06.2020, the petitioner lodged complaint against Mohammad Kaif and present respondents alleging that her daughter had committed suicide on account of abetment by respondents. In the complaint it was alleged that Mohammad Kaif was continuously threatening his daughter Muskan to publish her obscene videos and CD on the internet and due to this fact, she was under stress. She had told her mother that she would commit suicide. On the date of occurrence, during night time, Mohammad Kaif had come to their house but when mother of

Muskan awakened, he fled away. At around 2.00 a.m., his sister-in-law, Bilkish noticed that deceased was not in her bed and they started her search and came to know that she has committed suicide by hanging with sealing garter (Iron rod of ceiling fan). The police completed investigation and filed its report under Section 173 Cr.P.C. Challan was presented against Mohammad Kaif and Usman as well Siraj were found to be innocent. It was noticed that Usman was asking his son Mohammad Kaif to marry Muskan but he refused due to which Muskan committed suicide.

At the behest of petitioner, prosecution in terms of Section 319 Cr.P.C. filed an application seeking summoning of Usman and Siraj. The application came to be dismissed vide impugned order dated 05.07.2022.

Learned counsel for the petitioner inter alia contends that names of respondents were specifically mentioned in the complaint. The police had mechanically given clean chit to both the respondents. The complainant appeared before trial court as PW1 and specifically disclosed names of respondents i.e. Usman and Siraj. They had refused for the marriage of daughter of complainant with Mohammad Kaif.

I have heard learned counsel for the petitioner and perused the records.

In the complaint filed before police, statement made before trial Court and during course of arguments before this Court, the case of petitioner is that son of respondents refused to marry Muskan. The complainant had approached the respondents for marriage of his

daughter Muskan with Mohammad Kaif, however, respondents refused. From the complaint, statement made before trial court as well arguments made before this Court, it is inconceivable that respondents had abetted Muskan to commit suicide. It is a matter of trial whether Mohammad Kaif has abetted Muskan to commit suicide or not. It appears that it is case of denial of marriage on the part of Mohammad Kaif with deceased Muskan. The respondents are attempted to be dragged just because they are father/brother of Mohammad Kaif with whom Muskan and her family wanted to perform marriage. Power to summon anyone cannot be exercised mechanically. Criminal law cannot be put into motion at the whims and caprice of anyone. It causes mental and physical agony to a proposed accused. It is well known fact that conclusion of trial takes time and every time accused has to appear before the trial court. If a person is ultimately acquitted for having found innocent, it does not cause loss to the complainant whereas alleged accused suffers a lot during the pendency of trial. Thus, it would be unfair and unjustified to summon the respondents who do not even remotely seem to be connected with the alleged offence.

Dismissed.

(JAGMOHAN BANSAL)
JUDGE

13.02.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No