

CRM-M-52923-2021 (O&M)

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2023:PHHC:115152

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-52923-2021 (O&M)

Date of decision: 07.07.2023

Jatinder Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Jasbir Singh Dadwal, Advocate
for the petitioner.

Mr. Kunal Vinayak, A.A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

By way of present petition under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.12 dated 15.01.2007 registered under Sections 306, 34 IPC at Police Station Garhshankar, District Hoshiarpur along with all subsequent proceedings arising therefrom.

2. As per the allegations levelled in the FIR (Annexure P-1) registered on the statement made by Kuldeep Kaur, it has been alleged as under:-

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I am resident of above mention address and is house wife and I have two sons, my husband had expired 1½ year ago. After the death of my husband, my mother-in-law

Satya Devi w/o Late Balbir Singh took 1/2 Share of our house and she also sold joint property situated at village Assmanpur District Nawanshahr and I got only 30,000/- where as I am entitled to more share, which was not delivered to me. When I demanded the rest of the my money and share in joint house, then my mother-in-law Staya Devi and Sister-in-law Jatinder Kaur w/o Surinder Singh starting harassing me. On 13.1.07 my son Harvinder Singh went to my mother-in-law and sister-in-law for taking the keys of the rooms, then, both of them abused him and threw him out of the house. In anger, my son opened the lock of the door, regarding which my mother-in-law and sister-in-law called the village Panchayat, my mother-in-law and sister-in-law did not agree to deliver the share of the house to us. There panchyat member Jarnail Singh also abused my son. My son Harvinder Singh couldn't bear the insult done by the Jarnail Singh, Satya Devi and Jatinder Kaur, who yesterday at about 6:30 PM tied a cloth around his neck and committed suicide. The death my son happened due to the harassment by the above-mentioned three persons. Fining body temperature of Harvinder Singh he was taken to civil hospital Garhshankar, where he was declared brought dead.

xxx”

3. Present petition has been filed claiming that petitioner has nothing to do with the present matter. Petitioner is married to one Surinder Singh and was residing with her mother-in-law Satya Devi. Satya Devi after the death of her husband and elder son sold the entire land and distributed the proceeds in three equal shares. Dissatisfied, the grand-son namely Harvinder Singh and his mother Kuldeep Kaur were not happy with Satya

Devi and used to quarrel with her. On the fateful day, Harvinder Singh committed suicide resulting in the present FIR wherein the petitioner and Satya Devi stand implicated. On investigation, agency found the petitioner innocent and prepared the cancellation report. Even Kuldeep Kaur, the complainant, admitted that her son committed suicide on his own. The complainant Kuldeep Kaur got remarried and shifted to Canada and the cancellation report is awaiting presentation before the Court as the whereabouts of complainant Kuldeep Kaur are not known.

4. The aforesaid submission made by counsel for the petitioner is supported by reply filed on behalf of respondent-State by way of affidavit of Narinder Singh PPS, Deputy Superintendent of Police, Sub-Division Garhshankar, District Hoshiarpur, wherein it has been pleaded as under:-

“1. That it is submitted that FIR No.12, dated 15-01-2007, U/s 306, 34 IPC was registered against the petitioner, Satya Devi and Jarnail Singh on the statement of complainant Kuldeep Kaur. During the investigation, the accused Satya Devi submitted an application No.133-SSP, dated 17-01-2007 which was inquired into by Ashwani Sharma DSP Garhshankar. During the inquiry the complainant produced an affidavit duly attested by an Executive Magistrate, Garhshankar in which the complainant stated that at the time of registration of the case she was not in her senses and his son Harwinder Singh himself committed suicide and she does not want to get done any action against any person. On this, cancellation report of the present FIR was prepared by SHO, P.S. Garhshankar and the cancellation of the present case has been approved by the Senior Police officer and the same is to be presented in the court of Ld. Area Magistrate at Garhshankar. The accused Satya Devi and Jarnail Singh have passed away. The husband

and elder son of complainant Kuldeep Kaur has also expired. Then the complainant contracted her second marriage with someone else and has gone to Canada and her address of Canada is not available with the Police of P.S. Garhshankar, Distt. Hoshiarpur and as such the cancellation report of the same could not be given. The presence of complainant at the time of presentation of cancellation report in the court of Ld. Area Magistrate at Garhshankar is very much essential for acceptance of the cancellation report. When the complainant will get summon for appearance before the court of Ld. Area Magistrate, Garhshankar at the time of presentation of a cancellation report of the present FIR, the same will be presented in the court of Ld. Area Magistrate at Garhshankar for acceptance. The present application is liable to be dismissed.”

5. Having heard counsel for the parties and after going through record of the case, this Court finds that deceased Harvinder Singh if had any dispute the same was with her grandmother Satya Devi. There is no for the petitioner to be involved in the same. Apart therefrom, the investigating agency has already found the petitioner to be innocent, however, the final report awaits the complainant's return whose whereabouts are not known apart from the fact that she settled in Canada after having remarried.

6. In view of the above, this Court find that from bare reading of FIR (Annexure P-2) no offence under Section 306 IPC read with Section 34 IPC is made out against the petitioner and thus the same would fall within the parameters of law laid down in ***State of Haryana and others vs. Ch. Bhajan Lal & others, 1992 AIR (Supreme Court) 604***, where in while issuing a word of caution to exercise power of quashing a criminal

proceeding very sparingly and with circumspection and that too in the rarest cases, Apex Court has given an exhaustive list to illustrate the kinds of cases wherein such power should be exercised holding that:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. The aforesaid proposition of law laid down by the Apex Court in *Ch. Bhajan Lal's case (supra)* has further been reiterated by the Apex Court in *Rupan Deol Bajaj (Mrs.) and another vs. Kanwar Pal Singh Gill and another, AIR 1996 SC 309; Rajesh Bajaj vs. State NCT of Delhi and others (1999) 3 Supreme Court Cases 259; State of Kerala and others vs. O.C. Kuttan and others, 1999(2) SCC 651 and P.S. Rajya vs. State of Bihar, 1996(9) SCC 1 and State of Orissa vs. Bansidhar Singh, 1996(2) SCC 194.*

8. The test to be applied is as to whether the uncontroverted allegations as levelled in the FIR do establish the offence or not. The prosecution also admits that even during investigation nothing incriminating against the petitioner has been found.

9. As a sequel of discussion held herein above, this Court is satisfied that no offence is made out against the petitioner to prosecute him for offences punishable under Sections 306/34 IPC from the bare reading of FIR and the continuation of the proceedings will be nothing but an abuse of process of law.

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- 10. Consequently, the FIR is ordered to be quashed.
- 11. Pending application(s), if any, shall also stand disposed of.

(PANKAJ JAIN)
JUDGE

July 07, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No