

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

CRM-M-54067 of 2021
Date of Decision : 10.01.2023

Mukesh Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present Mr.Manjinder Singh Saini, Advocate
 for the petitioner.

Mr.Hemant Aggarwal, AAG, Punjab.

Amarjot Bhatti, J.

1. Mukesh Kumar has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.196 dated 24.12.2020 under Section 306 IPC (Section 201 IPC added lateron) registered at Police Station Sadar, District Hoshiarpur (Annexure P-1) along with all consequential proceedings arising out of the said FIR with further prayer to stay the proceedings or any other relief which this Court may deem fit in view of the facts and circumstances of the case.

2. As per the facts of the case, Dalvir Kaur filed a written complaint for investigation regarding death of her daughter under suspicious circumstances. The complainant alleged that after matrimonial dispute with her husband, she started residing in the parental house in village Bajwara. Her father has already expired and she is being looked after by her brother. On 20.06.2019, she came to know at about 7:00 pm that her daughter Amandeep Kaur was admitted in Narad Hospital, Hoshiarpur on account of consuming

some poisonous substance. She along with her brother Som Parkash went to Narad Hospital and saw that her daughter was unconscious and she was not responding. Mukesh son of Mohinder and his sister Rinku were present in the hospital who disclosed that his daughter i.e. the victim was lying unconscious in the street when they brought her to the hospital. The house of the complainant is situated nearby even then, they were not informed. She has further come to know that firstly, his daughter was taken to Kumar Hospital where they refused to admit her and ultimately, she was brought to Narad Hospital, Hoshiarpur where she died on the next day. The body was subjected to post-mortem examination and thereafter, it was handed over to the family members. Her daughter died under suspicious circumstances either by giving her some poisonous substance or by consuming it herself. The investigation was conducted. During investigation, Mohinder Pal and Rinku were found innocent whereas Mukesh Kumar, the present petitioner was arrested on 31.01.2021. On the completion of investigation, challan is presented in the court.

3. Learned counsel for the petitioner argued that he is falsely implicated in this FIR. The statement of Dalbir Kaur was initially recorded where she did not suspect anybody regarding the death of her daughter and accordingly, DDR No.29 dated 21.06.2019 was recorded which is Annexure P-2. Lateron, she filed a complaint with Senior Superintendent of Police, Hoshiapur suspecting the present petitioner. Copy of that application is Annexure P-3. Even during inquiry, his father Mohinder Pal and sister Rinku

@ Kulwinder Kaur were found to be innocent. In fact, the victim was lying unconscious in the street and on humanitarian ground she was admitted in the hospital. In the case in hand, there is no suicide note or other record to establish any link with the death of deceased-victim. There is nothing on record to establish the ingredients of Section 107 IPC and to establish the abetment on the part of the present petitioner in the commission of suicide by the deceased-victim. Merely on the basis of suspicion, the present petitioner has been arrested and facing trial in the aforesaid FIR. Learned counsel for the petitioner has relied upon an authority of Supreme Court of India in Criminal Appeal No.1022 of 2021 [Arising out of S.L.P.(Crl.) No.7554 of 2019] decided on 17.09.2021 titled as **Kanchan Sharma Vs. State of Uttar Pradesh and another** where in a similar case, “merely because the victim consumed poison in front of house of the appellant, that itself will not show any relation of appellant with the deceased. In that case, it was further held that there was no material within the meaning of Section 107 IPC and there was no basis to proceed against the appellant for alleged offence under Section 306 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989”. By relying upon this authority, the learned counsel for the petitioner argued that in absence of any material evidence and record on the file, he has been wrongly implicated under Sections 306 and 201 of IPC, therefore, the petition filed by him for quashing of FIR along with consequential proceedings may kindly accepted.

4. On the other hand, counsel representing the State took a stand that

after proper investigation of the case, accused has been challaned under Sections 306 and 201 IPC. The Investigating Officer has recorded the statements of relevant witnesses. It is a case of unnatural death. As per the report of the Forensic Science Laboratory (FSL), Aluminium Phosphide insecticide detected in the contents of exhibit II and Phosphine a constituent of Aluminium Phosphide detected in the contents of exhibits III, IV and V. The opinion of the doctor was received, according to which, cause of death is “Aluminium Phosphide poisoning” which is sufficient to cause death in ordinary course of nature. It is further pointed out that mobile phone of the victim was taken into police possession whereas the petitioner destroyed his own mobile phone for which the offence under Section 201 IPC was added. The challan is already presented and after the framing of charge, case is fixed for prosecution evidence. It is prayed that the petition is without merits and the same may kindly be dismissed.

5. I have considered the arguments advanced before me. I have gone through the record carefully. It is matter of record that the deceased-victim aged about 22 years was admitted in Narad Hospital, Hoshiarpur where she remained under treatment for 01 day and ultimately expired on 21.06.2019 on the next day. It is the case of unnatural death of the deceased-victim who was a young lady of 22 years of age. As per the report of FSL, it was a case of “Aluminium Phosphide poisoning”. It is mater of record that initially, on the day the deceased-victim expired, statement of Dalbir Kaur was recorded where she did not expressed her suspicion towards anybody. Accordingly, DDR No.29

dated 21.06.2019 was recorded. Lateron, she filed a written complaint dated 29.6.2019 to SSP, Hoshiarpur. After investigation, the present FIR was recorded. I have carefully gone through the contents of the FIR where Dalbir Kaur categorically stated that her daughter was on visiting terms to the house of Mahinder Pal. Admittedly, the deceased-victim was admitted in the Hospital by the present petitioner Mukesh Kumar and his sister Rinku who are children of Mohinder Pal. One aspect of the case is that when the victim was taken to the hospital, no information was given to the family who was residing in the same locality. As per the status report filed by the State, the mobile phone of the deceased-victim was taken into police possession whereas the mobile phone of the present petitioner was not recovered; for which they added the offence under Section 201 IPC. The contents of the challan report and the investigation carried out by the police, it has further come on record that the day victim was in the hospital, the present petitioner came to the house and took away one of the mobile phones of the deceased-victim from her grandmother. After investigation, Mukesh Kumar has been challaned under Sections 306 and 201 IPC in which charge has been framed and the case is fixed for prosecution evidence. Facts of each case are to be considered independently. The truth can come into light after recording the evidence of the prosecution. The onus is on the prosecution to prove the guilt of accused beyond the shadows of reasonable doubt. Even the petitioner can lead evidence in his defence. The power of quashing of criminal proceedings should be exercised sparingly in exceptional cases to prevent abuse of the process of Court and to

secure the end of justice.

Considering the facts and circumstances of the present case, I do not find appropriate case for the quashing of FIR or the consequential proceedings. Therefore, finding no merits in the petition, the same is declined. My above observations are made only for the disposal of the present petition. The case will be decided on merits after recording of evidence.

10.01.2023
sd

[AMARJOT BHATTI]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No