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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56753-2023
Date of decision: 09.11.2023

MANINDER BAGGA ALIAS MANU

...Petitioner

VERSUS

JIWAN KUMAR

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Deepak Arora, Advocate and
Mr. Kuldeep Kumar Sarthi, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of complaint No.266/2016 Annexure P-2 as well as summoning order dated 29.09.2023 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby the petitioner has been summoned to face trial under Sections 306, 346 and 506 of the IPC.

2. Learned counsel for the petitioner submitted that in a complaint, which was filed under Sections 306, 115, 116, 346 and 506 of the IPC, the petitioner has been summoned to face trial by the learned Judicial Magistrate 1st Class, Ludhiana and the said complaint filed by the complainant-respondent has also been challenged, which has been annexed as Annexure P-2 with the present petition. He further submitted that the conditions contained under Section 306 read with Section 107 of the IPC have not been fulfilled in the present case and

therefore, the entire summoning order passed against the petitioner is liable to be set aside and the complaint itself is also a motivated complaint and does not fulfill the essential condition for the offence which is sought to be made out against the petitioner.

3. As per the allegations in the FIR, which was earlier registered but thereafter, the complaint was filed and the said complaint was made by one Jiwan Kumar against the present petitioner by alleging that the petitioner is his neighbour and he had called the son-in-law of the complainant, namely, Ripal Kumar on phone, who is also running a leather goods shop in Saban Bazar, Ludhiana near his son's shop and the petitioner asked Ripal Kumar to let him talk to Puneet Kumar i.e. the son of the complainant and thereafter, Ripal Kumar got the talk of Puneet Kumar done with the present petitioner on phone and at that time, there was a heavy exchange of words on phone between them and the petitioner asked the son of the complainant to meet him and thereafter, the son of the complainant handed over the charge of his shop to Ripal Kumar i.e. son-in-law of the complainant and went to meet the petitioner. However, till 6:00 P.M., Puneet Kumar neither returned to the shop nor to the house and then the wife of the complainant, namely, Saroj Rani called Puneet Kumar on his phone and he told her that he had come to water tank of Sanjay Gandhi Colony and was coming back to the house and in the meantime, his mobile phone got switched off and the son of the complainant did not return to the house and they are searching for him till date. As per the complainant, he has full faith that his son, namely, Puneet Kumar has been secretly confined by the present petitioner because the petitioner was having suspicion that the son of the complainant was

having illicit relations with his wife, namely, Mona and they used to talk with each other on phone.

4. After the said complaint was filed before the learned Magistrate, Ludhiana, detailed preliminary evidence, ocular and documentary evidences were led and thereafter, the learned Magistrate, Ludhiana on the basis of preliminary evidence observed that the preliminary evidence produced on the record along with the documentary evidence clearly shows that the son of the complainant, namely, Puneet Kumar tried to commit suicide because the present petitioner used to instigate him to do the same, which was also based upon the suicide note Mark C-1, although which was not to be read into evidence being marked but the same cannot be ignored and has to be taken into consideration for the adjudication at least for the purpose of considering the summoning as to whether the petitioner should be summoned or not. Further CW-1 and CW-2 fully supported and corroborated the fact that Puneet Kumar tried to commit suicide after allegations were levelled by the present petitioner on his character. CW-5 also proved on record the various complaints moved by the complainant-respondent against the present petitioner.

5. The argument raised by the learned counsel for the petitioner that the ingredients of Section 306 read with Section 107 of the IPC are not fulfilled in the present case cannot be gone into by this Court at this stage because it can be seen only at the time of trial considering the aforesaid preliminary evidence which was led in the complaint and also observed by the learned trial Court. A complaint and the summoning order can be quashed at the threshold by the High Court by invoking the provisions of Section 482 Cr.P.C. only when the

same cannot be sustained on the face of it.

6. Therefore, this Court does not deem it fit and proper to invoke its extraordinary power under Section 482 Cr.P.C. for setting aside and quashing the complaint (Annexure P-2) and the summoning order (Annexure P-3).

7. Consequently, the present petition being devoid of any merit, is hereby dismissed.

09.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No