

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6804-2024 (O&M)
Date of Decision:- 23.2.2024

Major Singh ...Petitioner

Versus

Gurmeet Kaur and others ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Yogesh Goel, Mr. Lakshay Goel and
Mr. Simrandeep P. Singh, Advocates for the petitioner.

GURVINDER SINGH GILL, J.

1. The petitioner seeks quashing of order dated 25.11.2022 (Annexure P-10) passed by learned SDJM Baghapurana dismissing the protest petition/complaint under Section 306 IPC filed by the petitioner and also order dated 10.10.2023 (Annexure P-12) passed by learned Additional Sessions Judge, Moga vide which a revision petition filed by the petitioner challenging aforesaid order dated 25.11.2022 (Annexure P-10) has been dismissed. The petitioner has also laid challenge to order dated 14.7.2018 (Annexure P-5) passed by the Presiding Officer, National Lok Adalat-cum-SDJM Baghapurana and the cancellation report dated 9.3.2018 (Annexure P-3) submitted by the police with respect to FIR No. 7 dated 12.1.2018 under Sections 306/34 IPC, Police Station Baghapurana, District Moga.
2. A few facts necessary to notice are that FIR No. 7 was lodged at Police Station Baghapurana, District Moga on 12.1.2018 for offence under Sections

306/34 IPC by the petitioner/complainant - Major Singh alleging therein that his son Navdeep Singh @ Ravi is settled in Canada since the last about 11 years. It is alleged that complainant's son Navdeep Singh got arranged the marriage of his elder 'saali' (wife's sister) Rupinder Kaur with Manvir Singh. He also got arranged the marriage of her younger 'saali' (sister-in-law) Gurmeet Kaur with his elder brother Sukhdeep Singh about 2½ years back. Said Gurmeet Kaur after her marriage proceeded to Canada in the year 2017 and the entire expenses on her studies and travelling amounting to about Rs. 15 lacs were borne by the complainant. Although she used to talk over phone with Sukhdeep Singh during the first month but later she rarely used to attend to phone calls made to her by complainant's son Sukhdeep Singh. Gurmeet Kaur did not maintain good relations with complainant's son Sukhdeep Singh on account of which Sukhdeep Singh used to remain upset. Even Manvir Singh, co-brother (*Saadu*) of Sukhdeep Singh used to harass him. Gurmeet Kaur, Manvir Singh as well as Rupinder Kaur (sister of Gurmeet Kaur) used to pressurize complainant's son to get his marriage dissolved by divorce. It is alleged that complainant's son Sukhdeep Singh used to remain upset and ultimately committed suicide by shooting himself with his licensed pistol.

3. The matter was investigated by the police and a cancellation report dated 9.3.2018 (Annexure P-3) was prepared and presented before the Court of Area Magistrate. The complainant made a statement on 28.5.2018 before SDJM, Baghapurana to the effect that he agrees with the cancellation report and has no objection in case the same is accepted. The order passed by the learned SDJM on 28.5.2018 (Annexure P-4) is reproduced hereinunder :-

“Cancellation presented today. It be checked and registered. Statement of complainant Major Singh recorded in which he stated that present case bearing FIR No.7, dated 12.01.2018, U/s 306 of IPC, P.S. Baghapurana was registered on his statement. Today police official moved cancellation report before this Hon’ble Court. He agree with the cancellation report and will have not any objection if accepted by this Hon’ble Court. In view of the statement suffered by the complainant the file be put up in National Lok Adalat to be held on 14.07.2018.

Sd/-
(Pushpinder Singh)
PCS, SDJM/Baghapurana,
UID-PB0285”

Date of order:-28.05.2018

4. On the next date i.e. on 14.7.2018 a National Lok Adalat was being held at Baghapurana and the same very Presiding Officer i.e. SDJM Baghapurana was the Presiding Officer of the Lok Adalat as well. While accepting the cancellation report, the following order was passed on 14.7.2018 (Annexure P-5) :-

“Complainant Major Singh has already made separate statement on 28.5.2018 that on his statement, FIR No. 7 dated 12.01.2018, U/s 306 of IPC, PS. Baghapurana was registered and he agreed with the cancellation report submitted by the police in the above said FIR and he has no objection, if the present cancellation report is accepted. So, in view of the statement of complainant and facts and circumstances of the case, cancellation report is accepted. Judicial papers be separated and consigned to the record room and cancellation file be returned to the quarter concerned against proper receipt.

Pronounced
July 14, 2018

Pushpinder Singh, PCS,
Presiding Officer, National Lok Adalat
-cum- Sub Divi. Judicial Magistrate.
Baghapurana UID Number: PB-0285”

5. While the cancellation report was accepted on 14.7.2018, it appears that a few days back i.e. on 5.7.2018, the complainant had also filed a protest petition (Annexure P-6). The protest petition was put up before Court for the first time on 14.7.2018, when infact 'National Lok Adalat' was being held. The said protest petition was put up separately before the National Lok Adalat on 14.7.2018. It appears the Court was not made aware that the protest petition related to the same matter, in respect of which the complainant had earlier made a 'no-objection' statement and which was also listed before the Lok Adalat on same very day. The following order was passed on the protest petition on 14.7.2018 (Annexure P-8) :-

“File taken up in the National Lok Adalat. Compromise not effected.
File be put up on 21.7.2018 for consideration.

Pushpinder Singh, PCS
Presiding Officer National Lok Adalat -cum-
SDJM Baghapurana.
UID Number: PB-0285”

6. When the matter was taken up for consideration on the next date i.e. on 21.7.2018, the Area Magistrate ordered for treating the protest petition as a complaint and passed the following order :-

“Consideration heard. The present protest petition has been filed against the cancellation of FIR No.7 dated 12.01.2018. The cancellation report was presented on 28.05.2018 and on that day the complainant Major Singh suffered statement that he agree with the cancellation report and as per his statement the same was accepted on 14.07.2018 and now with this protest petition be again wants to pursue the matter through this protest petition. In view of the contents of protest petition same is treated as complaint and fixed for complainant evidence. The file of cancellation report is ordered to be

attached with the present complaint. Now to come up on 18.08.2018 for evidence of the complainant.

Sd/-
(Pushpinder Singh)PCS,
SDJM/Baghapurana,
UID-PB0285”

Date of order:-21.07.2018

7. Pursuant to passing of the aforesaid order dated 21.7.2018, the trial Court recorded the statement of the complainant's witnesses CW-1 Major Singh, CW-2 Jaswinder Kaur wife of petitioner-Major Singh, CW-3 Constable Harwinder Singh and CW-4 Dr. Reetu Jain. The trial Court considered the evidence led by the complainant and upon marshalling the same reached at the conclusion that no case was made out to summon the accused. The relevant extract from the said impugned order dated 25.11.2022 (Annexure P-10) is reproduced herein-under :-

“.....I am also of the view that blatant attempt has also been made by the complainant to make mockery of the process of law, even by retracting from the statement given in the cancellation report on 28.05.2018, as per which he agreed with the cancellation report and suffered a statement that he was having no objection if cancellation report is accepted by the court. Thereafter, on 14.07.2018, the cancellation report was accepted by the court. I am of the view that predecessor of this court again on 21.07.2018 had treated the protest petition filed by the complainant as a private criminal complaint, but I am of the view that once cancellation report was accepted on 14.07.2018, then regarding the same occurrence, protest petition cannot be filed unless any new circumstances come to the fore. So I am of the view that during investigation before the police and before the court in the cancellation report, Major Singh complainant had taken the stand that due to some misunderstanding he took the name of accused persons and got them entangled in the criminal proceedings, but thereafter again he took somersault and again filed the protest

petition on 04.07.2018. But I am of the view that once the cancellation report had been accepted by the court on 14.07.2018, then subsequently on 21.07.2018 on the same cancellation report which had already been accepted by the court, the protest petition could not be filed on the same facts and if the complainant was aggrieved by order of the criminal court dated 14.07.2018 regarding acceptance of the cancellation report, then he would have challenged the same before the Appellate Court, but the order dated 14.07.2018 has never been challenged by the complainant Major Singh. So, it is still intact and has never been set aside by any competent court of law. Moreover, I am of the view that there is no such provision of review in the criminal procedure code and cancellation report which had already been accepted by the court on 14.07.2018 could not be revived on 18.08.2018 as criminal court after pronouncing the order became *functus officio* and it cannot recall its own order. So, I am of the view that credibility of complainant Major Singh is totally demolished by his conduct and his sole motive which appears from the perusal of the file shows that he has axe to grind against the accused persons as time and again he is misusing the process of law to achieve his ulterior motives. So, I am of the view that even though at the stage of summoning only sufficient grounds to proceed against accused persons is to be seen by the court, but in the present case no case is made out to summon the accused persons. So, the present criminal complaint is hereby dismissed. File be consigned to the record room.”

8. The petitioner challenged the aforesaid order dated 25.11.2022 (Annexure P-10) by way of filing a criminal revision petition before the Sessions Judge but even the Additional District Judge, Moga dismissed the revision petition vide order dated 10.10.2023 (Annexure P-12) leading to filing of the instant petition.
9. The learned counsel for the petitioner submits that the present case is a case where there has been a miscarriage of justice inasmuch as on the day when

the cancellation report was accepted vide order dated 14.7.2018 (Annexure P-5), a protest petition had already been filed before the Area Magistrate on 5.7.2018 which was not taken into account at all and the Area Magistrate proceeded to accept the cancellation report on the basis of a statement of complainant recorded more than a month earlier which infact had been got recorded by pressurizing the petitioner. It has further been submitted that since the protest petition which was subsequenly considered and treated as a complaint was dismissed solely on ground of maintainability on the premises that cancellation report already stood accepted, therefore, it is a fit case where all the impugned orders be set aside and the matter be examined afresh.

10. This Court has considered the aforesaid submissions.
11. A perusal of the FIR and the other documents annexed with the petition would show that the complainant alleges that his son used to remain upset and on account of respondent No. 1 refusing to talk to him despite having been married to complainant's son and on account of the complainant's son being told by the private respondents to get his marriage with respondent no. 1 - Gurmeet Kaur dissolved. However, it is not in dispute that after the marriage, while Gurmeet Kaur was abroad, the complainant's son was in India all the time. While the complainant may have borne the expenditure incurred on travelling and studies of respondent No. 1 but the same apparently was on account of the fact that respondent no. 1 was daughter-in-law of the complainant and the complainant being part of the family could be expected to bear the expenses. It could be a case where complainant's son went in depresssion on account of the fact that he was not taken abroad by respondent no. 1 but in any case the alleged conduct of complainant's

daughter-in-law Gurmeet Kaur in not being good to her husband Sukhdeep Singh (deceased) inasmuch as she did not attend to his calls or that the accused while residing abroad used to press upon deceased to divorce his wife particularly when respondent no. 1 was residing abroad i.e. away from deceased cannot be said to be sufficient to fall within the ambit of ‘abetment to commit suicide’.

12. Still further, this Court finds that the petitioner himself cannot be said to be a very reliable as he has been taking different stands before the trial Court. While on one occasion he had stated that he has no objection for acceptance of the cancellation report but subsequently he took a *volte-face* and stated that he did not agree with the cancellation report.
13. Though this Court finds that the petitioner before filing this petition never chose to assail order dated 14.7.2018 (Annexure P-5), vide which cancellation report was accepted five years back also finds the learned SDJM ought not to have entertained protest petition once cancellation report already stood accepted, but this Court need not delve into these aspects as in any case, the facts of the case when examined in totality do not warrant that the matter be re-opened.
14. The petition is found to be sans merit and is hereby dismissed.

23.2.2024
kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasonedYes / No

Whether ReportableYes / No