

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.25084 of 2018
Date of Decision: 01.02.2024

KRISHNA KUMARI

... Petitioner

Versus

RAM KISHAN AND OTHERS

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Dinesh Kumar Prajapati, Advocate
for the petitioner (Legal Aid Counsel).

Mr. Dhruv Sihag, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C the petitioner sought quashing of the impugned order dated 19.11.2015 passed by learned Judicial Magistrate Ist Class, Karnal (Annexure P-1) whereby the criminal complaint No. 54 of 2015 titled as “Krishna Kumari vs. Ram Kishan and Others” was dismissed and also order dated 07.12.2017 (Annexure P-2) passed by the learned Additional Sessions Judge, Karnal whereby the revision preferred against the said order was also dismissed.

2. In *nutshell*, the case of the petitioner is that she filed an complaint under Section 323, 325, 506, 148, 149, 452 IPC against

respondent No.1 to 8 alleging that the respondent No.1 had a grudge against her and her family. Respondent No.1 along with other respondents in pursuance of the common intention trespassed to the house of the petitioner armed with deadly weapon caused injuries to the complainant and her family members on 18.07.2007, since the police did not take any action, a complaint was filed on 25.10.2012.

3. After considering the preliminary evidence adduced by the complainant, the learned Judicial Magistrate Ist Class vide impugned order dated 19.11.2015 (Annexure P-1) had dismissed the complaint. Aggrieved by the same the petitioner preferred revision, which was also dismissed vide impugned order dated 07.12.2017 (Annexure P-2) by the learned Additional Sessions Judge, Karnal.

4. Aggrieved by the aforesaid orders, the petitioner has preferred the present petition.

5. It is, *inter alia* contended by learned counsel for the petitioner that the respondents-accused have trespassed to the house of the petitioner on 18.07.2007 armed with deadly weapons and caused injuries to the complainant and her family members. He contends that the petitioner herself stepped into the witness box and also examined the material witnesses in the preliminary evidence but the learned Magistrate dismissed the complaint vide impugned order dated 19.11.2015 (Annexure P-1) on flimsy ground, without considering the fact that respondents had committed the specific offences and caused injuries to the petitioner as well as her family members. He submits that even the revision petition preferred by the petitioner was also dismissed by learned Additional Sessions Judge, Karnal

vide order dated 07.12.2017 (Annexure P-2) without appreciating evidence on record, hence he prayed for quashing of the aforesaid impugned orders and for summoning of the respondents as accused in the said complaint.

6. Arguments have been heard.

7. Considering the arguments and also perusing the impugned orders, it transpires that the alleged incident took place on 18.07.2007 wherein the respondents allegedly armed with deadly weapons had trespassed to her house and caused injury to her and her family members. She preferred a complaint on 25.10.2012 in the Court of learned Judicial Magistrate First Class, Karnal and adduced the preliminary evidence. Considering the evidence brought on record, the learned Magistrate proceeded to pass impugned order dated 19.11.2015 (Annexure P-1) dismissing the complaint. Even the revision preferred against said order was also dismissed by learned Additional Sessions Judge, vide impugned order dated 07.12.2017 (Annexure P-2). A bare perusal of the impugned orders would reveal at the very outset that there is no illegality or infirmity therein as the same have been passed in accordance with law after appreciating the facts and circumstances of the case in the light of the preliminary evidence adduced by the complainant. It is evident there from that the alleged occurrence according to the petitioner on took place on 18.07.2007 but she filed the complaint only on 25.10.2012 i.e. after delay of more than 5 years there from, no explanation whatsoever has been put forth by the complainant which provide her from seeking redressal of her grievance immediately after the alleged occurrence. Although she claimed to have approached the police, but no application or record has been brought on the file to show as to

substantiate her contention to explain the inordinate delay in filing of the complainant. The petitioner claimed to have sustained injuries in the alleged occurrence but admittedly she never herself got medically examined. She has examined her son Raj Kumar as CW-2 who claims to have sustained injuries in the alleged occurrence and has also examined CW-4 Dr. Sarita Bishnoi who conducted his medical examination vide Exhibit CW-4/B but admittedly, it was being on 25.07.2007 after about 7 days of the alleged occurrence. This unexplained delay in getting the medical examination being after 7 days of the said occurrence create doubt regarding version given by the complainant and further there is nothing on record which could connect the said injury with the alleged occurrence. As stated above the instant complaint was filed by the petitioner after more than 5 years of the alleged occurrence and this inordinate delay has not been explained by her, she has neither produce any document to prove that she had during this period approached the police or other authority for redressal of her grievance and why she kept mum for this long period of 5 years. Furthermore, the evidence adduced by the petitioner in the Court comprising of herself, her son, her daughter and her husband and no independent witness from the locality has been examined. All these factors have weighed in the mind of the learned Magistrate and has ample discussed the same while passing the impugned order dated 19.11.2015 (Annexure P-1) finding no case being made out against the respondents for their summoning and finding no force in the allegations levelled by the petitioner coupled with aforesaid circumstances creating doubt regarding genuineness thereof, dismissed the

complaint. In the revision preferred by the petitioner before the learned Additional Sessions Judge, all these aspects have been judiciously considered, and dismissed the revision petition.

8. Having gone through the above facts and circumstances in the light of the arguments advanced by learned counsel for the petitioner, it is observed that the learned Magistrate has considered the preliminary evidence adduced by the complainant in accordance with law and finding the version given by the petitioner doubtful, had dismissed the complaint. The revision thereto was also dismissed, both the orders impugned by the petitioner have been passed in accordance with law by applying judicious approach and no infirmity or illegality therein observed so as to call for any interference therein by way of present petition.

9. Resultantly, in the light of the above discussion, finding no merits in the petition, the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

01.02.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |