

2025:PHHC:034987



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

CRM M-28941 of 2017

Date of Decision: 01.03.2025

Vandana

...Petitioner

Versus

Sunaina

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Abhishek Sindhwani, Advocate, for the petitioner.

Mr. Parminder singh, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 14.03.2017 (Annexure P-1) passed by the Court of Additional Sessions Judge, Karnal and the impugned judgment dated 20.11.2012 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Karnal, whereby, both the Courts had held that there was no ground to summon the respondent/accused as no offence was made out against her.

2. The brief facts, as submitted in the complaint are that Manoj Kumar, husband of petitioner was having an affair with Sunaina, respondent/accused. On 01.03.2008, he was called by Sunaina from Jind and, thereafter, he had taken her to a hotel in Kurukshetra in a car and on their way back to Karnal, she

administered poison to him. The condition of Manoj Kumar deteriorated and he was taken to PRP Hospital, Karnal and the doctor informed the police. ASI Nafe Singh reached the hospital and sought the opinion for recording the statement of Manoj Kumar, however, he was declared unfit. After some time, ASI Nafe Singh received a telephonic call that Manoj Kumar was fit to make the statement and he wanted to give the statement before the Magistrate. Consequently, ASI Nafe Singh requested Vivek Nasir, Duty Magistrate, to reach in the hospital and the statement of Manoj Kumar was recorded by the Duty Magistrate, but before he could complete his statement, he suffered a heart attack and died. One FIR No. 99 dated 02.03.2008 under Section 302 IPC, Police Station Civil Lines, Karnal was registered against the respondent. The petitioner and other persons were joined in the investigation and after investigation, the FIR was cancelled. The petitioner moved applications to SP as well as DC Karnal, but no action was taken. Ultimately, the petitioner filed a protest petition and had led the preliminary evidence but vide the impugned order dated 20.11.2012 (Annexure P-2), the Court of Judicial Magistrate 1st Class, Karnal, held that no *prima facie* case was made out against the respondent and the complaint was ordered to be dismissed. The petitioner filed a revision petition before the Court of Sessions Judge, Karnal, and vide the impugned judgment dated 14.03.2017 (Annexure P-1), the Court of Dr. Chander Hass, Additional Sessions Judge, Karnal, dismissed the revision petition

filed by the present petitioner. Learned counsel for the petitioner has vehemently argued that the husband of the petitioner was murdered about 10 years ago by the respondent and since then, she had approached various authorities, so that the respondent may be prosecuted under Section 302 IPC. In fact, the respondent had administered Aluminum phosphide to Manoj Kumar on 01.03.2008. Before dying, Manoj Kumar made a statement to Vivek Nasir, JMIC, Karnal and he had leveled specific allegations against the respondent. Learned counsel further submits that in the dying declaration of Manoj Kumar, respondent was specifically named as an accused and Manoj Kumar (since deceased) had categorically stated that the respondent had administered poison to him. However, both the Courts had wrongly dismissed the prayer made by the petitioner and the impugned orders are legally unsustainable.

3. I have heard the rival submissions made by the learned counsel for the parties and perused the record.

4. In the present case, the prosecution/petitioner had examined 07 witnesses in the preliminary evidence and, thereafter, the petitioner had closed her evidence. In fact, both the Courts have discussed the evidence in detail and findings have been recorded after due appreciation of evidence in the present case. In the present case, it is apparent that the FIR was registered against respondent on 02.03.2008. During the course of hearing, the police had recorded the

statements of various witnesses and came to the conclusion that it was not a case of murder and the cancellation report was prepared by the police. Even, the petitioner/complainant also filed a petition under Section 482 Cr.P.C. before this Court and the same was decided by this Court on 10.03.2009 and the relevant extract is reproduced below:-

"During the investigation statements of witnesses were recorded and enquires were made from the concerned persons. It was revealed during the investigation that Manoj Kumar deceased, husband of the petitioner, had love affair with Sunaina accused-respondent. Both used to meet frequently. Manoj Kumar deceased despite being married desired to marry Sunaina. When Sunaina came to know that Manoj Kumar deceased was married and was having children, she refused to marry him and started keeping distance from him. Manoj Kumar started harassing Sunaina, upon which she moved application dated 27.01.2008 against Manoj Kumar deceased in the office of S.P. Karnal, which was sent to the Police Station Civil Lines, Karnal and the matter was compromised between them to the effect that from that day Manoj Kumar deceased would not meet Sunaina. However, on 01.03.2008, Manoj Kumar deceased came to Karnal from Jind and told Sunaina that if she did not marry him, there was no use for him to live in this world. He told Sunaina that he had consumed a packet of Sulphas. Immediately, Sunaina called Rajinder Kumar son of Harbans Lal, resident of Ahsoka Colony, Karnal and along with him took Manoj Kumar to hospital at

Karnal for treatment. Sunaina also gave blood to Manoj Kumar during medical treatment, Manoj Kumar told Dr. G.D. Sharma that he had himself consumed a packet of Sulphas. During investigation, it was found that no call was made to Manoj Kumar by Sunaina from her mobile phone. After a thorough investigation, the police found that Manoj Kumar had committed suicide and submitted cancellation report."

5. From the above, it is apparent that Rajiv Kumar son of Harbans Lal had appeared as a witness, who stated that Sunaina had called Manoj Kumar, since deceased, telephonically and they both met in Atal Park, Karnal. They went to Kurukshetra and while returning from Kurukshetra, the respondent had given a Coca Cola to Manoj Kumar, since deceased. However, his health deteriorated and he was taken to a hospital. The police had recorded the statement of Rajiv Kumar son of Harbans Lal and he stated that the respondent had administered Coca Cola to Manoj Kumar, since deceased. However, as per the statement of Dr. G.D.Sharma, at about 03.00 p.m. on 01.03.2008, Rajinder Kumar and Sunaina had come to the hospital and they had brought Manoj Kumar to the hospital as he had consumed some poisonous substance. They brought Manoj Kumar in the hospital as he had consumed some poisonous substance. Sunaina had taken the responsibility of treatment of Manoj Kumar and Rajinder Kumar had taken the responsibility of Sunaina. Even, Manoj

Kumar, since deceased, told him that he himself had consumed Aluminum phosphide.

6. Apart from that, it is apparent that even though the statement of Manoj Kumar, since deceased, was recorded by Shri Vivek Nasir, the then Judicial Magistrate 1st Class, Karnal, but that statement was not complete and before Manoj Kumar could complete his statement under Section 164 Cr.P.C., he had expired due to heart attack and could not complete his statement. Further, it is also apparent that there was Aluminum phosphide in the cold drink and after consuming the same, Manoj Kumar had died. In fact, when Aluminum phosphide is mixed with cold drink, several chemical reactions take place and it is impossible to administer Coca Cola, which has been mixed with sulphas.

7. Even otherwise, both the Courts have recorded detailed reasons while rejecting the prayer made by the petitioner in the present case. Thus, finding no merits, the present petition is ordered to be dismissed.

01.03.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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