

2026.PHHC.082581



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

105

CRM M-52852-2023

Date of Decision: 21.05.2026

Jagjit Singh and others

...Appellant (s)

Vs.

Amritpal Kaur

...Respondent(s)

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

Present : Mr. Rajesh Bhateja, Advocate
for the petitioners.

Mr. Ashok Paul Batra, Advocate
for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present petition under Section 482 Cr.P.C. with a prayer to quash the criminal complaint No. 54 dated 10.09.2012 titled as *"Amritpal Kaur versus Jagjit Singh and others"*, (Annexure P-8), summoning order dated 01.07.2023 passed by the court of Judicial Magistrate First Class Moga (Annexure P-11), whereby, the petitioners have been summoned to face the trial for commission of offences punishable under Sections 302 read with Section 34 IPC and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner has vehemently argued that Jagjit Singh, petitioner No. 1, is real brother of Ajmer Singh, since deceased, and is brother-in-law of Amritpal Kaur, complainant,

petitioner No. 2, namely, Sukhwinder Kaur, wife of petitioner No. 1. Both the petitioners No.1 and 2 are residing in Germany since 25 years whereas Ajmer Singh, since deceased, was residing at Village Bhinder Kalan, Tehsil Dharamkot, District Moga and was an agriculturist. Learned counsel further submits that on 08.07.2011 Ajmer Singh, brother of petitioner No.1 had expired and one DDR No. 8 dated 09.07.2011 under Section 174 Cr.P.C. was recorded in Police Station Mehna, District Moga on the basis of the information received from the present complainant, who is the wife of the deceased also. She categorically stated in her statement that Ajmer Singh, deceased, was not keeping good health and due to frustration, he consumed celphos tablets and had expired. Even during 174 Cr.P.C. proceedings, the statement of complainant was recorded wherein she categorically stated that Ajmer Singh, since deceased, was not happy with his life and had consumed celphos tablets and had expired and she did not want to take any action against anyone. She also stated that petitioner No.1 had taken him to hospital for treatment but Ajmer Singh had expired. Even the DDR No. 8 dated 09.07.2011 was attached as annexure P-2. After the death of Ajmer Singh, his dead body was sent for postmortem examination and his viscera was also sent for chemical examination report. However, as per the postmortem report, no external injury mark was found on the dead body of deceased and aluminium phosphide was found in his stomach as per the postmortem report and chemical examination report (Annexure P-3). Later on, Malkiat Singh, brother of the complainant, got prepared a forged agreement to sell dated 09.07.2011 alleging that the petitioner No. 1 had agreed to sell his land measuring 12 canals to

Malkiat Singh and the said deed was to be executed on 15.07.2011. On 16.07.2011, he even filed a civil suit (Annexure P4) for decree of specific performance. When the petitioner No. 1 came to know about the forgery of the agreement to sell by brother of the complainant, he also filed a suit for declaration (Annexure P-5) to the effect that the alleged agreement to sell dated 09.07.2011 was null and void. Thereafter, with a view to put pressure on the petitioner in order to grab the property of petitioner No. 1, the complainant and her brother had hatched a criminal conspiracy and after a gap of more than seven months of death of Ajmer Singh, they got registered one FIR No. 28 dated 14.02.2012 under Section 306/34 IPC at Police Station, Dharmkot, District Moga against the petitioner (Annexure P6). After registration of the FIR (Annexure P6), the police investigated the matter and it was found that the petitioners were innocent. A detailed report dated 13.08.2012 (Annexure P-7) was prepared by the police and the FIR was recommended to be cancelled. Thereafter, in order to harass the petitioner further, the complainant again filed a complaint No. 54 dated 10.09.2012 (Annexure P-8) against the petitioner by twisting the story and stated that they had committed the offence under Sections 306, 302 and 34 IPC. In fact, this clearly shows that she herself was not sure as to whether Ajmer Singh had committed suicide or was killed by someone and her version was contradictory. Learned counsel further contends that after the filing of the present complaint, now vide the impugned order dated 01.07.2023 (Annexure P-11), the petitioners have been summoned to face trial under Sections 302 and 34 IPC. Thus, he submits that the impugned complaint dated 10.09.2012 (Annexure P-8), summoning

order dated 01.07.2023 (Annexure P-11) and all consequential proceedings are abuse of process of the Court and are liable to be quashed by this Court. He further submits that in fact, Ajmer Singh, since deceased, was the real brother of petitioner No. 1 and, admittedly, they were having good relations. The petitioner No. 1 always helped the deceased financially as they were having very good relations with each other. Even, Ajmer Singh, since deceased, had expired and the complainant herself stated that her husband was not keeping good health and due to frustration, he consumed celphos tablets and had expired.

3. On the other hand, learned counsel for the respondent/complainant filed reply on behalf of the respondent and submitted that the petitioners have raised disputed questions of fact and such facts cannot be decided by invoking the inherent jurisdiction under Section 482 Cr.P.C. At the stage of summoning only, a *prima facie* case was required to be seen and the meticulous appreciation of evidence was not permissible. Even, the petitioner had concealed the material facts from this Court and the petition deserves to be dismissed by this Court.

4. I have heard learned counsel for the parties and perused the record very carefully.

5. In the various judgments passed by the Hon'ble Supreme Court and this Court, it has been held repeatedly while referring to the provisions of Section 482 Cr.P.C. that nothing under the Code of Criminal Procedure shall deem to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. The Hon'ble Supreme

Court in the matter of *Ajay Mitra Vs. State of M.P. & others, 2003(3) SCC 11*, has held as follows:

“Leave granted. -

These appeals by special leave are directed against the judgment and order dated January 16, 2002 of High Court of Madhya Pradesh, by which three Petitions filed by the appellants under Section 482 Cr.P.C. dismissed.

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Thereafter, were the appellants filed three Criminal Miscellaneous Petitions under Section 482 Cr.P.C. before the High Court for quashing of the FIR and the proceedings of the case before the learned Magistrate. After hearing the parties, the High Court held that the investigation had not yet commenced in connection with the FIRs which had been registered at the Police Station and, therefore, the Petitions were pre-mature and accordingly all the three Petitions were rejected.

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*The High Court has held that the Petitions filed by the appellants for quashing the complaint and the FIRs registered against them are pre-mature. The question which arises is that where the complaint or the FIR does not disclose commission of a cognizable offence, whether the same can be quashed at the initial stage? This question was examined by this Court in *State of West Bengal & Ors. V. Swapan Kumar Guha & Ors., AIR 1982 Supreme Court 949* and it was held that the First Information Report which does not allege or disclose that the essential requirements of the penal provision are prima facie satisfied, cannot form the foundation or constitute the starting point of a lawful investigation. It is surely not within the province of the police to investigate into a Report (FIR) which does not*

disclose the commission of a cognizable offence and the code does not impose upon them the duty of inquiry in such cases. It was further held that an investigation can be quashed if no cognizable offence is disclosed by the FIR. The same question has been considered in State of Haryana &Ors. V. Ch. Bhajan Lal &Ors. 1991(3) RCR (Criminal) 383 (SC) and after considering all the earlier decisions, the category of cases, in which the Court can exercise its extraordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. either to prevent abuse of the process of any Court or to secure the ends of justice, were summarised in para 108 of the Report and sub- paras 1 to 3 thereof are being reproduced hereinbelow :

"1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code. 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused."

6. The said judgment by the Three Judges Bench of the Hon'ble Supreme Court had affirmatively held that where an FIR does not disclose the essential requirements of the penal provision or does not disclose the commission of a cognizable offence, the same can be

quashed at the initial stage. Reference has also been made to the judgment of Hon'ble Supreme Court in case "*State of Haryana and others Vs. Ch. Bhajan Lal & Ors., 1991(3) RCR (Criminal) 383*), in which, it was observed that the High Court can exercise its extraordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. 1973 either to prevent abuse of the process of any Court or to secure the ends of justice.

7. The Hon'ble Supreme Court of India in "*R Kalyani vs. Janak C. Mehta*" reported as 2009 (1) SCC 516 has held as under:

"Leave granted.

2. Appellant lodged a First Information Report (FIR) against the respondents on or about 4.1.2003 under Sections 409, 420 and 468 read with Section 34 of the Indian Penal Code.

3. First and second respondent approached the High Court for an order for quashing of the said FIR as also the investigation initiated pursuant thereto or in furtherance thereof. The High Court allowed the said proceedings by reason of the impugned order dated 29.4.2004. Mr. K.K. Mani, learned counsel appearing on behalf of the appellant, would, in support of the appeal, contend :

(1) The High Court exercised its inherent jurisdiction under Section 482 of the Code of Criminal Procedure wholly illegally and without jurisdiction insofar as it entered into the disputed questions of fact in regard to the involvement of the respondents as the contents of the first information report disclose an offence of cheating, criminal breach of trust and forgery.

(2) While admittedly the investigation was not even complete, the High Court could not have relied upon the documents furnished by the defendants either for the purpose of finding out absence of mens rea on the part of the applicants or their involvement in the case.

(3) Respondent Nos.1 and 2 herein being high ranking officers of M/s. Shares and Securities Ltd., a company dealing in shares, were vicariously liable for commission of the offence being in day to day charge of the affairs thereof.

(4) An offence of forgery being a serious one and in view of the fact that the respondent No.2 forwarded a letter purporting to authorise the accused No.3 to transfer shares to the National Stock Exchange, he must be held to have the requisite intention to commit the said offence along with the respondent No.3.

(5) In any view of the matter, the respondent No. 3 being not an applicant before the High Court, the entire criminal prosecution could not have quashed by the High Court.

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In Hamid v. Rashid alias Rasheed & Ors. [(2008) 1 SCC 474], this Court opined :

"6. We are in agreement with the contention advanced on behalf of the complainant appellant. Section 482 Criminal Procedure Code saves the inherent powers of the High Court and its language is quite explicit when it says that nothing in the Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. A procedural Code, however exhaustive, cannot expressly provide for all time to come against all the cases or points that may possibly arise,

and in order that justice may not suffer, it is necessary that every court must in proper cases exercise its inherent power for the ends of justice or for the purpose of carrying out the other provisions of the Code. It is well established principle that every Court has inherent power to act ex debito justitiae to do that real and substantial justice for the administration of which alone it exists or to prevent abuse of the process of the Court."

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One of the paramount duties of the Superior Courts is to see that a person who is apparently innocent is not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.

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A vicarious liability can be fastened only by reason of a provision of a statute and not otherwise. For the said purpose, a legal fiction has to be created. Even under a special statute when the vicarious criminal liability is fastened on a person on the premise that he was in charge of the affairs of the company and responsible to it, all the ingredients laid down under the statute must be fulfilled. A legal fiction must be confined to the object and purport for which it has been created. In Sham Sunder & Ors. v. State of Haryana [(1989) 4 SCC 630], this Court held :

"9. But we are concerned with a criminal liability under penal provision and not a civil" liability. The penal provision must be strictly construed in the first place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not."

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27. If a person, thus, has to be proceeded with as being vicariously liable for the acts of the company, the company must be made an accused. In any event, it would be a fair thing to do so, as legal fiction is raised both against the Company as well as the person responsible for the acts of the Company.

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30. The appeal is dismissed with the aforementioned observations”.

A perusal of the above judgments would show that it has been observed that the High Court cannot be a helpless spectator when it is clearly made out that the criminal prosecution is *malafide* and an abuse of the process of the Court. The High Court has inherent powers and a corresponding duty to prevent the abuse of the process of the Court or otherwise to secure the ends of justice.

8. In the present case also, the complaint itself is reflective of *malafide* on the part of the complainant and can very well serve as a ground to pursue prosecution against the present petitioner. Admittedly, the petitioner No.1, the real brother of the deceased, was having good relations with the deceased and the complainant also. Even, the petitioners No. 1 and 2 were residing in Germany for the last 25-30 years, whereas Ajmer Singh, since deceased, was residing in District Moga and was an agriculturist. Even, he had been cultivating the land of the petitioners for the last several years. However, as per the admitted case of the complainant, he was not maintaining good health and committed suicide on 08.07.2011 by consuming celphos tablets. The

proceedings under Section 174 Cr.P.C. were conducted and it was the complainant herself, who stated that her husband was suffering from various diseases and his health did not improve in spite of long medical treatment and due to this her husband used to remain upset. Even he had consumed celphos tablets as he did not want to live anymore. On hearing his cries, the petitioner No. 1 had taken him to the hospital. Even, while he was being shifted to another hospital, he had expired. Had there been any ill intention on the part of the petitioners, they would not have shifted Ajmer Singh to the hospital. Even, from the post-mortem report, it is apparent that no external injury mark was visible on the person of the deceased and he had died due to consumption of celphos tablets. A perusal of the complaint (Annexure P-8) and the summoning order (Annexure P-11) would show that the complainant had alleged that the petitioners had committed the murder of Ajmer Singh, since deceased, by administering poisonous substance to him. Ajmer Singh, since deceased, was an agriculturist and was aged about 45 years. However, from the post-mortem report, it is apparent that there was no external mark of injury anywhere on his person. Had the petitioners administered celphos tablets to the deceased forcibly, he would have definitely resisted and would have suffered injuries on his person. Still further, the complainant also managed to get one FIR No. 28 dated 14.02.2012 under Sections 306 and 34 IPC registered at Police Station Dharamkot, District Moga by alleging that the petitioner had instigated the death of the deceased and allegations were levelled under Section 306 IPC. Even, it is also apparent from the RTI information (Annexure P-12) that the complainant had also obtained

compensation of Rs.2 lakhs from the Punjab government by mentioning that her husband had committed suicide. However, now in the complaint (Annexure P-8), the complainant had taken a stand that all the petitioners had forcibly administered celphos tablets to her husband, i.e., the deceased. Thus, it is apparent that the complainant had lodged the complaint against the petitioners with an ulterior motive and only with a view to harass and humiliate them.

9. In view of above discussion, the present petition succeeds and the criminal complaint No. 54 dated 10.09.2012 titled as “*Amritpal Kaur versus Jagjit Singh and others*”, (Annexure P-8), summoning order dated 01.07.2023 passed by the court of Judicial Magistrate First Class Moga (Annexure P-11), whereby, the petitioners have been summoned to face the trial for commission of offences punishable under Sections 302 read with Section 34 IPC and all consequential proceedings arising therefrom are ordered to be quashed qua the petitioners only.

10. Pending applications, if any, stand also disposed of, accordingly.

21.05.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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