

**IN THE COURT OF VISHAL, JUDICIAL MAGISTRATE FIRST
CLASS, GURUGRAM (UID No.HR00546)**

COMI-235-2024

CNR No. HR030248602024

Date or order :-07.09.2024

Present : Ms. Amita Singh, counsel for complainant.

Today the matter was listed for further preliminary evidence on behalf of the complainant. Today, learned counsel for the complainant made a statement in writing that she closes the further preliminary evidence on behalf of the complainant. However, at this stage, an application under Section 319 of Cr.P.C. has been moved on behalf of the complainant seeking the summoning of additional accused named Rajendra Prasad. Learned counsel for the complainant has argued over the merits of the present complaint as well as over the application moved by her under Section 319 of Cr.P.C. before the Court. Arguments have been heard. Perusal of the present complaint along with the application moved on behalf of the complainant under Section 319 of Cr.P.C. shows that as per the version of the complainant, on 19.02.2024 at around 4.30 p.m., complainant saw two dogs being tied by the driver and gardner of Yash Garg and Yash Garg and his brother were standing and supervising the cruel and illegal act done by their driver and gardner. Before the complainant could shelter and protect the third younger dog within his house and rush out to save the other two, Yash Garg quickly sent them away in his car. Complainant asked Yash Garg about the dogs and he arrogantly replied that they bit his daughter and now have been disposed off. Both the aforesaid brothers went around proclaiming that they would do the same with every other dog in the lane. The dogs were beaten up or poisoned before getting them tied up and dislocated and subsequently were dead. Gardner named Mansiram Mali and and Garg's driver accompanied by another man Ashok revealed that dogs were thrown off on Faridabad road but did not share whether they were still alive or dead. The proposed accused

persons never acknowledge the legal notice which was issued to them. The complainant has moved the appropriate application before the police as well but no action was taken upon the application of the complainant. Certain emails were also sent by the complainant to police apprising about the act and conduct of the proposed accused persons. Police has not followed the direction of the judgment of Hon'ble Supreme Court titled as "Lalita Kumari Vs. Govt. of U.P. & Ors. (2014) 2 SCC" 1 as well as "Sakiri Vasu Vs. State of U.P. & Ors.(2008) 2 SCC 409." In the last prayer has been made on behalf of the complainant to issue summoning against the proposed accused persons for the offence punishable under Section 428/429 of IPC.

2. In the application moved on behalf of the complainant under Section 319 of Cr.P.C., the complainant has specifically depicted the role and conduct of the third proposed accused person named Rajender Prasad.

3. By way of preliminary evidence, Vicky Sudha has appeared before the Court as PW1 and has deposed on the same line as have been mentioned in the complaint. Specific instances of the conversation of Vicky Sudha with the proposed accused named Vivek Garg has also been highlighted.

4. Mansa Ram appeared into witness box as PW2. In his testimony, he submitted that he is working as a gardner. On 19.02.2024, at around 4.30 p.m., when he was returning to his home, he saw that the proposed accused persons Vivek Garg and Yash Garg along with their driver and neighbour were tying the dogs. When he tried to resist, the proposed accused persons did not respond and ignored him. The above named persons took the dogs somewhere in their car.

5. Further, Sonia Lall appeared into witness box as PW3 and submitted that on 19.02.2024, when she went outside in order to feed the dogs, the dogs were not present. Several persons from public were present who intimated that the proposed accused persons have killed the

dogs. When the complaint moved to the police, police did not act in accordance with the provision of law.

6. In support of the present complaint, complainant has submitted before the Court the documentary evidence i.e. legal notice issued on behalf of complainant to the proposed accused persons named Vivek Garg and Yash Garg which is Ex.PW1/2, the email sent to the proposed accused person named Yash Garg which is Ex.PW1/3, complaint moved before the SHO, DLF Phase-3 which is Ex.PW1/4, copy of whatsapp chat of SHO, DLF Phase-3 which is Ex.PW1/5, copy of email sent to SHO, DLF Phase-3 which is Ex.PW1/6-7, copy of email DCP(East), Gurugram which is Ex.PW1/8, copy of the police proceedings/notice which is Ex.PW1/9, copy of pen drive containing the telephonic conversation, CCTV footage which is Ex.PW1/10-11-12, copy of the email sent to the Police Commissioner, Gurugram which is Ex.PW1/13, copy of message sent to learned counsel on behalf of Saral Haryana which is Ex.PW1/14, copy of email sent by the complainant to Police Commissioner, Gurugram which is Ex.PW1/15, Certificate u/s 65 B of Indian Evidence Act which is Ex.PW1/16, Pen drive containing the CCTV footage showing/indicating the killing of one dog by the proposed accused named Rajender Prasad which is Ex.PW1/18, copy of receipt regarding the receiving of complaint which is Ex.PW1/19.

7. After going through the contents of the complaint along with application moved on behalf of the complainant under Section 319 of Cr.P.C., this Court is of considered view that there are serious allegations raised on behalf of the complainant against the proposed accused persons named Yash Garg, Vivek Garg and Rajender Prasad in relation to dislocating and killing of three dogs. The testimonies of the witnesses produced on behalf of the complainant named Vicky Sudha, Sonia Lall and Mansa Ram reflects before this Court that the accused persons in connivance of each other have dislocated the three dogs and killing the aforesaid dogs on behalf of aforesaid proposed accused persons also cannot be ruled out. The CCTV footage produced on behalf

of the complainant in pen drive Ex.PW1/18 clearly shows that the person named Rajender Prasad is tying the three dogs and is leading him to a corner and after packing the aforesaid dog into a card box, he is carrying the aforesaid dog somewhere else. The aforesaid dog seems to be silent in the aforesaid card box which signifies the killing of the aforesaid dog on behalf of the proposed accused person named Rajender Prasad. The oral testimonies leading on behalf of the complainant is corroborated by the CCTV footage, photographs, telephonic conversation which have been brought on record on behalf of the complainant.

8. The aforesaid discussion establishes before this Court that there are sufficient grounds to proceed against the proposed accused persons named Vivek Garg, Yash Garg and Rajender Prasad for the offence punishable u/s 429 of IPC read with Section 34 of IPC.

9. In view of the aforesaid, application moved on behalf of the complainant u/s 319 of Cr.P.C. today is considered and allowed. Let, summons be issued to the accused persons named Vivek Garg, Yash Garg and Rajender Prasad for **04.10.2024** on filing of necessary expenses, copy of complaint, within one week. Dasti summons be given if so desired.

Announced in Open Court
dated: 07.09.2024

Pooja

(Vishal)
JMFC, Gurugram,
UID No.HR0546