

In the High Court of Punjab and Haryana, at Chandigarh

Criminal revision No. 1940 of 2013

Date of Decision: 28.4.2015

Kitab Singh

... Petitioner(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Vijay Kumar Jindal, Senior Advocate
with Mr. Akshay Jindal, Advocate
for the petitioner(s).

Mr. Rajiv Doon, Assistant Advocate
General, Haryana for respondent No.1.

Mr. Atul Lakhanpal, Senior Advocate
with Mr. R.S.Chahal, Advocate
for respondent No.2.

Darshan Singh, J.

1. The present revision petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") by the accused/petitioner, namely Kitab Singh against the order dated 25.3.2013 vide which he along with his co-accused has been charge sheeted for the offences punishable under Sections 306, 420, 467, 468 read with Section 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC").

2. As per the prosecution allegations, some land was purchased by complainant-Sunil in the name of his mother, namely Raj Rani. Prior to this, Bhim Garg had also purchased the joint land in that chunk. They had land dispute with the said Bhim Garg. The complainant party had

agreed to sell their land to Bhagirath Jangra and Others and had received ₹ 40,00,000/- as earnest money. Due to litigation with Bhim Garg, they had returned ₹ 20,00,000/- and their plan to purchase further land by utilizing that money also failed. It is further alleged that the petitioner, in connivance with Bhim Garg and his other co-accused, had fraudulently and dishonestly passed the order of the change of khasra girdawari. It was alleged that due to the atrocities committed by the accused to grab the land and the cruelty committed by them with respect to the change of khasra girdawari and loss of the earnest money of ₹ 1,00,00,000/-, Deepak Kumar, brother of complainant-Sunil, had committed suicide. He had addressed two suicide notes which were recovered from the search of the dead body.

3. After completion of the investigation, the report under Section 173 Cr.P.C. was presented in the Court.

4. The petitioner along with his co-accused was charge sheeted for the offences punishable under Sections 306, 420, 467, 468 read with Section 120-B IPC vide order dated 25.3.2013. Aggrieved against the said order, the present revision petition has been preferred.

5. I have heard Mr. Vijay Kumar Jindal, Senior Advocate assisted by Mr. Akshay Jindal, Advocate counsel for the petitioner, Mr. Rajiv Doon, Assistant Advocate General, Haryana for respondent No.1-State of Haryana, Mr. Atul Lakhanpal, Senior Advocate assisted by Mr. R.S.Chahal, Advocate counsel for respondent No.2-complainant and have meticulously examined the record.

6. Mr. Vijay Kumar Jindal, learned Senior Advocate contended

that petitioner Kitab Singh was posted as a Revenue Officer. He had performed his official duty by passing the order for the correction of the khasra girdawari in accordance with law. The ingredients of the offence punishable under Section 306 IPC are not at all attracted against the petitioner. There is no material to show that he has abetted the commission of suicide by Deepak Kumar by any act of omission and commission. Deepak had committed suicide after more than three months of the passing of the order by the petitioner. Thus, there is no direct nexus between the suicide by Deepak Kumar and passing of the order by the petitioner.

7. He further contended that any order passed by the Revenue Officer, Administrative or Judicial Authority in discharge of his/her official duty, cannot be stated to be an abetment on the part of that officer to commit suicide by the aggrieved person. He contended that the charge is not to be framed mechanically. It can only be framed if the ingredients of the offence are *prima facie* made out. But in the instant case, no such *prima facie* case was made out. To support his contentions, he relied upon the cases ***Ram Sarup v. Ravi and Others 2012(5) R.C.R. (Criminal) 594*** and ***Union of India v. Prafulla Kumar Samal and Another AIR 1979 Supreme Court 366***.

8. He contended that the petitioner has a remedy to approach this Court for quashing the charge. To support his contention, he relied upon the case ***M/s Pepsi Foods Ltd. v. Special Judicial Magistrate 1997(4) R.C.R. (Criminal) 761***. He further contended that there is no hard and fast rule that proceedings cannot be quashed after filing of the

challan or even after framing of the charge. To support his contention, he relied upon the case ***Diviya alias Babli and Others v. State of Haryana and Another 2006(4) R.C.R.(Criminal) 322.***

9. He contended that mere this fact that some evidence has been recorded is also no ground to decline the relief as the charge can be amended at any stage of the case as per Section 216 Cr.P.C.

10. On the other hand, learned counsel for the complainant contended that as a result of criminal conspiracy, the accused have created such circumstances which compelled the deceased to commit suicide. He was economically shattered. So the aforesaid circumstances will *prima facie* attract Section 306 IPC. To support his contentions, he relied upon the cases ***Amit Kapoor v. Ramesh Chander and Another 2012(4) R.C.R.(Criminal) 377*** and ***Didigam Bikshapathi and Another v. State of A.P. 2008(1) R.C.R.(Criminal) 209.***

11. He further contended that recording of the evidence has been almost completed by the trial Court. Only one witness remains to be examined. The trial has reached at its fag end. He contended that the case would have been disposed of by now, by the trial Court if the record would not have been summoned by this Court. He further contended that it is not appropriate at this stage when almost the entire evidence except one witness has already been recorded by the trial Court to determine the vires of the impugned order framing the charges. He contended that the petitioner can raise all these pleas before the trial Court at the time of arguments. The decision of this Court on the point of

charge at this stage may cause prejudice to either of the parties. So, it is not appropriate stage to entertain the revision petition.

12. I have duly considered the aforesaid contentions.

13. The present petition has been filed under Section 401 Cr.P.C. to set aside the impugned order framing the charges against the petitioner. Learned senior counsel for the petitioner has vehemently pleaded that the charge under Section 306 IPC has been wrongly framed by the trial Court as no *prima facie* case to attract the ingredients of the offence of abetment to commit suicide on the part of the petitioner was made out. The said contentions have been repelled by learned counsel for the complainant by alleging that the accused have created such circumstances that the deceased was economically shattered and was compelled to commit suicide. In my opinion, the adjudication of the aforesaid contentions raised by learned counsel for the parties will not be appropriate by this Court keeping in view the advanced stage of the trial. The exercise of the revisional jurisdiction is discretionary in nature. While exercising this discretionary jurisdiction, the Court has to take into consideration the stage of the case.

14. Perusal of the trial Court record shows that in this case 29 witnesses have already been examined. Pws. Kuldip, Mansukh, Suresh Kumar, Om Parkash, Gur Sewak Singh, Ram Dulare, Mai Lal, Dhan Singh, Subhash Dehru, Kapil, Lady Assistant Sub Inspector Usha Sharma and Assistant Sub Inspector Narender have already been given up. Total 43 witnesses have been cited, out of which 29 have been examined and 12 have been given up. Learned counsel for the

complainant has stated that all the material witnesses have already been examined. Thus, in this manner, almost the entire prosecution evidence except two witnesses have already been recorded by the trial Court. When the trial has reached at its fag end, it will not be proper for this Court to exercise its revisional jurisdiction to create complications in the trial. However, the trial Court can be directed to expedite the culmination of the trial.

15. In view of my aforesaid discussion, the present revision petition is hereby disposed of with a direction to the trial court to conclude the trial expeditiously, preferably within a period of four months from the date of receipt of a copy of this order. The petitioner shall be at liberty to raise all the pleas available to him before the trial Court at the appropriate stage. It is expected that the pleas, raised by the petitioner, shall be duly considered by the trial Court, in accordance with law. The Registry is directed to ensure that the original record is dispatched to the trial Court by speed post within three days, positively, from the date of this order.

(Darshan Singh)
Judge

April 28, 2015

“DK”