109 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-200-2017
Date of decision-24.01.2017

Sanjeev Rawat ...Petitioner
Vs.
State of Haryana and another ...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepender Singh, Advocate for the petitioner.

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JITENDRA CHAUHAN, J. (Oral)

This revision has been filed for setting aside the impugned order dated 20.10.2016 passed by learned Additional Sessions Judge-I, Palwal vide which an application filed by the prosecution under Section 319 Criminal Procedure Code (in short 'Cr.P.C') for summoning petitioner as additional accused for offences under Sections 120-B, 264-A, 420, 387 and 302 of Indian Penal Code and Section 24 of the Emigration Act, 1983 was allowed.

The sole contention raised by learned counsel for the petitioner is that since the offence of murder had taken place in Bangkok (Thailand), so as per the provisions of Section 188 of Cr.P.C., the learned trial Court cannot take cognizance of the matter without previous sanction of the Central Government. Therefore, the summoning of the petitioner as an additional accused by the trial Court is bad in the eyes of law.

The brief facts of the case are that the petitioner Sanjeev Rawat had traveled along with one Prempal (since deceased) to Malaysia on the pretext of getting him a job. On 17.10.2011, complainant, Jagram received a telephonic call from his brother Prempal whereby, he was asked to deposit Rs. 1 lakh in Prempal's account. Jagram deposited Rs. 1 lakh and thereafter, Prempal disclosed to the complainant that he has been confined by some unknown persons at an unknown place and they were threatening and pressurizing him to arrange Rs. 4 lakh or else he would be eliminated. The complainant deposited Rs. 4 lakh in the account numbers provided to him on 24.10.2011. Thereafter, on 26.10.2011, the complainant again received a call for deposit of Rs. 40,000/- in the account of one Amarjeet and he was told that his brother Prempal Singh would return home. When his brother did not return, the complainant enquired from the petitioner who had already come back. The petitioner assured the complainant that his brother would return in a day or two. On 29.10.2011, a telephonic call was received whereby Rs. 20 lakh were demanded to be deposited immediately out of which Rs. 10 lakh were to be deposited within three days with a warning that in case the amount is not deposited, his brother would be done to death. This conversation was recorded by the complainant and was also shared with petitioner who upon listening to the conversation, disclosed that persons speaking on phone were Amarjeet, Manish and Jassi. Prempal Singh was later found murdered in Bangkok, Thailand.

I have learned counsel for the petitioner and have gone through the case file.

The first version recorded by the brother of the deceased, namely, Jagram is that the deceased was cheated in India and on the pretext of getting him a job, he was taken to a foreign country. Later on, he was done to death by the accused persons and his body was found in Bangkok. Prima facie it appears that the conspiracy to commit cheating started in India and as a result the deceased was taken to Malaysia and from there, he was apparently taken to Thailand where he was murdered.

Complicity in the offence of criminal conspiracy and the role played by the petitioner in the elimination of deceased cannot be ruled out at this stage. Sanction under Section 188 Cr.P.C is not a condition precedent in the present case as from the facts on record it prima facie emerges that from the offer to serve job for the deceased abroad and subsequently taking the deceased to a foreign country ultimately culminating into his murder are different stages of the one continuous crime.

In the case of ***Ajay Agarwal Vs. UOI 1993 (3) R.C.R.(Criminal) 34***, Hon'ble the SC has observed as under:-

> *"Thus we hold that sanction under Section 188 is not a condition precedent to take cognizance of the offence. If need be it could be obtained before trial begins. Conspiracy was initially hatched at Chandigarh and though itself is a completed offence, being continuing offence, even accepting appellant's case that he was at Dubai and part of conspiracy and overt acts in furtherance thereof had taken place at Dubai and partly at Chandigarh; and in consequence thereof other offences had been ensued. Since the. offences have been committed during the continuing course of transaction culminated in cheating P.N.B. at Chandigarh, the need to obtain sanction for various offences under proviso to Section 188 is obviated. Therefore, there is no need to obtain sanction from Central Govt. The case may be different if the offences were committed out side India and are completed in themselves without conspiracy.*

> *Prosecution of the appellant under Section 120B read with Section 420 and 471 of the Indian Penal Code (in brief 'IPC') was assailed for absence of sanction under Section 188 of the Criminal Procedure Code (in brief 'Cr. P. C.'). Two submissions were advanced, one that even though criminal conspiracy was itself an offence but if another offence was committed in pursuance of it outside India then sanction was necessary; second-an offence is constituted of a number of ingredients and even if one of them was committed outside the country Section 188 of the Cr. P.C. was attracted."*

Consequently, the petition stands dismissed.

Anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(JITENDRA CHAUHAN)
JUDGE

January 24, 2017
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No