

CRM-M-11065-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11065-2016

Date of Decision: 15.03.2018

Baldev Singh and others

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jagjot Singh Lalli, Advocate,
for the petitioners.

Ms. Monika Jalota, D.A.G., Punjab.

Mr. Nikhil Sharma, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners seek quashing of FIR No. 48 dated 02.05.2013, registered at Police Station Bhindi Saidan, District Amritsar (Rural), alleging therein the commission of an offence punishable under under Section 304-A read with Section 34 IPC, against the four petitioners herein.

A reading of the FIR (Annexure P-1), shows that it was stated by the complainant to the following effect:-

“Statement of Joga Singh, son of Jawand Singh, caste Majhi Sikh, resident of Kariyal, Police Station Bhindi Saida, aged about 85 years. It is stated that I am resident of village Kariyal and an agriculturist by occupation. I am married to Dalbir Kaur, who is aged about 70 years. I have two sons. In the year 1965, 4 kanal land, which is owned by the Central Government, was made fertile by me and on the said land my possession is still going on. But Gurmukh Singh, son of Geja Singh, caste Jatt, resident of Kariyal, also claims his possession over the said land on the basis of Girdawari. On 01.05.2013, at about 07:00 a.m. Baldev Singh, son of Geja Singh,

Gurmukh Singh, son of Geja Singh, Jassa, son of Baldev Singh, Surjan Singh, son of Sudagar Singh, caste Jatt, residents of Kariyal came in front of my house and said that you don't enter said field as we have to make wheat-shell (Turi) and threatened and scared me and went from there. At that time, my wife Dalbir Kaur also came and got tensed on hearing the talks of above said persons and fell down. I and my family members arrange vehicle and took my wife to Janta Hospital, opposite Jail, Amritsar, where doctor kept her for treatment. Today, on 02.05.2013, she has died. My wife Dalbir Kaur has died due to the deep shock given by above said persons by threatening us. The dead body of Dalbir Kaur is at home. Baghicha Singh, son Chanan Singh, residents of Miadian and Jassa Singh, son of Joga Singh has been asked to take care of dead body. You have met us, I am the claimant, action may be taken. Sd/ Joga Singh attested Lakhvir Singh, ASI Police Station Bhindi Saidan, dated 02.05.2013."

(Emphasis applied by this Court)

Eventually, upon investigation having been conducted by the police, a cancellation report was filed before the competent Court (JMJC Ajnala), and as noticed in the order of this Court dated 09.02.2018, passed in this petition, the matter had been kept pending to await the order of that Court.

Today, learned counsel for the petitioner submits that the learned Magistrate had directed the police to further investigate into the matter.

On query, learned State counsel on instructions from ASI Sukhdev Singh, does not deny the aforesaid direction and submits that as a matter of fact even upon further investigation, another cancellation report has been prepared to be filed in the competent Court, no offence having been found to be made out by the police again.

Having considered the aforesaid, it is to be seen that a reading of the aforesaid statement of the complainant, Joga Singh, i.e. respondent no. 2 herein,

which was converted into an FIR, shows that there is no allegation of any kind of physical contact at all by the petitioners, with the wife of the complainant, i.e. deceased Dalbir Kaur, nor any allegation of any fire arm or other arm having been used to inflict any kind of injury upon him.

In the post mortem report (Annexure P-7) it is recorded as follows:-

“Scalp Skull and Violence

Scalp, Skull:- NAD

Brain:- Right hemisphere of brain is pale and slightly discolored in appearance as compared to left hemisphere of brain. There is swelling of brain with widening of gyri and narrowing of sulci in right hemisphere specifically in region of right parietal to be an upper part of temporal lobe. There is softening brain matter in the region.

On cut Section There is poor demarcation between gray and white matter in right hemisphere of brain as compared to left hemisphere. Thorax

Walls, ribs and cartilages NAD

Pleural Cavities NAD

Lungs NAD

Pericardium, Heart, Large

Vessels Coronary Vessels Heart sent for Histopathological examination”.

It is also stated in the report that the exact cause of death would be declared after receipt of the histopathological report of the heart from the Department of Pathology, Government Medical College, Amritsar.

A copy of the said report has been annexed as Annexure P-8, which states as follows:-

After going through Histopathological report No. 507/Patho/13 dated 13.07.2013 sent by Dr. Kuldeep Singh Chahal, Assistant Prof. Department of Pathology, GMC, Amritsar, Police

inquest bearing 1 to 18 pages, MRI scale of brain done at Advance Diagnostic, Amritsar dated 01.05.2013 and photocopy of Hospital record of Janta Hospital, Ajnala Raod, Amritsar, I am of the opinion that cause of death in this case is failure of function of brain as a result of acute infarct on right side of brain which is sufficient to cause death in ordinary course of nature.

Upon query to learned counsel for respondent no. 2 as to how any offence under Section 304-A IPC, is made out against the petitioners, in view of the fact that there is no allegation whatsoever even in the complaint made by respondent no. 2, of any physical contact, or any injury inflicted by any kind of firearm or knife etc., on the deceased, he is unable to actually give any explanation whatsoever for the same, and very fairly submits that he would not actually be able to say anything to the effect that an offence punishable under Section 304-A IPC is made out.

Considering the above, though possibly, the lady, aged about 70 years as per even counsel for the complainant, may have been affected adversely due to the altercation between her husband and the petitioners, however, with no medical opinion to the effect that the infarct in the brain could be the result of stoppage of blood supply due to a shock arising out of seeing a heated argument between her husband with others, in my opinion, it would not be possible to even *prima-facie* say that the lady died as a direct cause of the said altercation.

It is necessary to notice here that the dictionary meaning of an 'infarct' is "a small localised area of dead tissue resulting from failure of blood supply."

Consequently, the petition is allowed and FIR No. 48 dated 02.05.2013, registered against the petitioners at Police Station Bhindi Saidan, District Amritsar, for the alleged commission of an offence punishable under Section 304-A read with Section 34 IPC, is hereby quashed.

However, no observation made by this Court, either in this order or in

any order prior thereto, would come in the way of any civil proceedings initiated by respondent no. 2, seeking damages from the petitioners or any other accused, which proceedings would be decided wholly on their own merits.

March 15, 2018
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No.