

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Revision No.3330 of 2014 (O&M)
Date of Decision: 14.03.2018

Sachin Nayyar and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Isha Goyal, Advocate, for the petitioners.
Ms. Monika Jalota, DAG, Punjab
Mr. Rishu Mahajan, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

By this revision petition, the petitioners seek the setting aside of the impugned order dated 03.09.2014, by which the learned trial court held that a prima facie case was made out against the petitioners (accused) for the commission of an offence punishable under Section 306 read with Section 34 IPC. The Court had therefore posted the case for framing of the charge on the next date of hearing.

This petition having been filed in the year 2014, after notice was issued the trial court was directed to adjourn the matter to a date beyond that fixed by this Court at that stage, with the said order continuing to operate till date.

The allegations against the petitioners are made out in FIR no.72 dated 02.04.2013, registered at Police Station City Nakodar, District Jalandhar, the FIR having been registered at the instance of one Vishal Nayyar, who stated before the police that petitioners no.1 and 3, i.e. Sachin Nayyar and Sumit Nayyar, had borrowed Rs.20 lacs from his father Ashok

Nayyar, but when his father was in need of the money, they made excuses to not return it, due to which his father remained disturbed and in fact there was also intervention of various panchayats to get the matter amicably settled, but without any result.

Consequently, the complainants' father had got registered an FIR against all the present petitioners earlier also (the nature of the exact offences made out in that FIR not given in detail in the FIR presently in question; but learned counsel for the petitioners points to the fact that the said FIR was registered alleging therein the commission of offences punishable under Sections 420, 452, 323, 506 IPC).

The 'present FIR' goes on to state that on 01.04.2013, the complainants' father rung him up and told him that he was under depression and was being harassed by the petitioners and that he had consumed poison and was lying in his ancestral home. The complainant and his mother therefore reached there, to find his father in a condition, critical. He having been taken to the local hospital, he was referred to the Civil Hospital, Jalandhar, where he was admitted and from his pocket, what is stated to be a suicide note, was recovered, stating as follows:-

“I Ashok Kumar s/o Megh Raj Nayyar r/o House No.27, Adarsh Colony, Nakodar Six months back, I had entered into an agreement to sell my shop for Rs. One Crore Three Lac only with Mr. Subash Chander and received Rs. Thirty Three Lac as token money. My relative and brother Sham Allayer and both his sons Sumit Nayyar and Sachin Nayyar S/o Sham Lal Nayyar R/o House no.4718, Green Avenue, Nakodar, somehow, came to know about this transaction and they asked me that they suddenly required money to the tune of Rs. Seventeen Lac, they have an

emergency so I gave the money to them believing their credentials, moreover, they are my relatives. They gave me a cheque with a forged signature after that they approached me again and demanded Rupees Three Lac more and in turn persuaded me that they shall return me Rs. Twenty Lac at the earliest possible. When I asked to return my Rupees Twenty lac they came to my house forcefully and beaten me and threatened to kill me. This money was provided to them from the sale transaction of my shop. I am shocked to experiencing utter dismay and disbelief and behaviour. If I collapsed, a case may be registered against all the three above named persons. Sd/- Ashok Kumar Nayyar R/o Adarsh Colony, Jalandhar Road, Nakodar.”

Thereafter the complainants' father died during treatment and as per the allegation of the complainant, his life had ended due to his consuming poisonous substance on account of harassment and non-return of money at the hands of petitioner no.2, Sham Lal Nayyar and his two sons, i.e. petitioners no.1 and 3.

The police having eventually submitted a report under Section 173 (2) Cr.P.C., the case came to be committed to the Court of Sessions and eventually led to the passing of the impugned order.

A perusal thereof shows that the learned trial Court has opined that from the suicide note it was clear that the accused persons had taken a huge amount of Rs.20 lacs from the deceased and when he demanded the money back, he was given beatings and was threatened, due to which “he was shocked” and committed suicide.

Therefore, observing that the deceased, in the suicide note, had clearly referred to the background in which he had taken the extreme step,

that Court formed the opinion that there was sufficient reason for framing a charge for the commission of an offence punishable under Section 306 read with Section 34 of the IPC.

While doing so, the judgments cited by the learned counsel for the accused were duly referred to by the trial court, but holding that in the facts and circumstances of the case, they were not applicable.

Before this Court, Mr. Vikram Chaudhary, learned Senior Counsel, had argued on the last date of hearing that no offence punishable under Section 306 IPC could be made out simply because the deceased had committed suicide as he was allegedly owed a lot of money, because every person reacts differently to different situations and therefore, some other people in the same situation would probably not have taken the same step and consequently, it would be the ratio of the judgment of the Supreme Court in **Sanju @ Sanjay Singh v. State of M.P.**, 2002(2) RCR (Crl.) 687, which would apply.

It is seen that in that case there was a quarrel between the accused and the husband of his sister, with the accused telling the deceased that he should "go and die" with the deceased thereafter having committed suicide on the third day after the quarrel. Consequently, it was held that the suicide was not the direct result of the quarrel.

On the other hand, Mr. Mahajan, learned counsel for the complainant, has also relied upon various judgments of the Supreme Court as follows:-

- 1) **Amit Kapoor v. Ramesh Chander and another**, 2012 (4) RCR (CrI.) 377;
- 2) **Praveen Pradhan v. State of Uttranchal and another**, 2012 (4) RCR (CrI.) 724;
- 3) **Sherish Hardenia and others v. State of M.P. and another**, 2014 (3) Law Herald (SC) 2125 and
- 4) **Didigam Bikshapathi and another v. State of A.P.**, (2008) 2 SCC 403.

In Amit Kapoors' case (supra), the accused persons were stated to have fraudulently obtained the signatures of the deceased, with the deceased having discussed the possibility of selling a plot owned by the family and the accused having told the deceased that certain documents had to be executed before the plot was sold, upon which they were paid a sum of Rs.8 lacs. The accused also occupied two rooms on the ground floor of the house of the deceased, initially with her consent. Subsequently, the accused refused to vacate the house, eventually leading to the deceased slipping into depression and committing suicide by hanging herself.

Charges for the commission of offences punishable under Sections 448 and 306 of the IPC were framed against the accused; which were challenged by way of a revision petition before the Delhi High Court.

That Court quashed the charge framed under Section 306 IPC, while upholding the charge under Section 448 IPC.

In the aforesaid circumstances, the judgment and order of the

Delhi High Court holding that no offence for the commission of an offence punishable under Section 306 IPC was made out, was set aside by the Supreme Court, with the trial court directed to proceed with the trial in terms of the charges framed under the aforesaid provisions.

In the present case, the circumstances leading to the death of the deceased already having been discussed, in my opinion also, a prima facie case for framing a charge in respect of the commission of an offence punishable under Section 306 IPC is made out against the petitioners, the suicide note of the deceased, as also the complaint of the complainant being specific to the effect that the deceased committed suicide on account of Rs.20 lacs not being returned by the petitioners to the deceased, which is stated to have been given to them when they needed it but with the return not taking place when the deceased was in need of the money, with harassment etc. also having been alleged at the hands of the petitioners to the deceased.

It is further seen that the deceased even got FIR no.41 dated 13.02.2013 registered at the same police station about 1½ months prior to his suicide, alleging therein the offences already referred to herein above, the allegations in that FIR being essentially to the same effect as have been narrated herein above, with the deceased also stating therein that he and his wife had been threatened with death by one of the petitioners and he had subsequently been beaten up by the petitioners and one SI Bhagat Ram. (A copy of FIR no.41 has been also annexed as Annexure P-7, with this

petition).

Consequently, in the aforesaid circumstances, I find absolutely no error in the impugned order of the learned trial court framing the charge against the petitioners, making out an offence punishable under Section 306 read with Section 34 of the IPC and consequently, this petition is dismissed with the interim order vacated. The trial Court would proceed with the trial from the stage it was left of.

However, it is made clear that nothing stated herein above shall be taken to be an observation of this Court on the merits of the case for or against the petitioners, which shall be decided wholly on the basis of the evidence led before that Court, all observations made herein above and in any order passed previously, being completely in the context of framing of the charge against the petitioners.

[It it is to be noticed that though arguments were addressed in this petition the day before yesterday by the learned Senior Counsel, i.e. on 12.03.2018, however, the matter had been adjourned to yesterday on his request, to take instructions as to whether the petitioners would like to withdraw the petition or contest it on merits, after this Court had expressed its opinion that it was not inclined to allow it for the aforesaid reasons.]

14.03.2018
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: Yes