

255 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25175 of 2017

Date of decision : February 15, 2019

Charanjit Singh @ Bittu and anotherPetitioners
Versus

State of Punjab and anotherRespondents

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Tarunveer Vashist, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab assisted by
SHO Gurcharan Singh

Mr. Prashant Bansal, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

Prayer made in the petition is for quashing of FIR No.242 dated
18.10.2016 under Sections 306/34 IPC registered at Police Station City
Rajpura, District Patiala.

For reference, the contents of the FIR reads as under :-

“Statement of Dharampal s/o Rati Ram, Caste Pandi,
resident of House No.B-1/1250, Aroreyan Wala Mohalla,
Banuri Gate, Old Rajpura, aged about 47 years.

It is stated that I am resident of the above mentioned address
and serving in Police Station, PCL at Rajpura. My son
Narinder Kumar aged 22 years who was doing the work of
Modeling and was also studying. Rimpny @ Davinder Singh
s/o Bhag Singh, Kush Rose s/o Dev, Sarab Kamboj s/o
Inderjit Singh Bittu @ Charanjit Singh s/o Bhag Singh, Ram

Charan @ Pandit, resident of Harpalpur used to sit with my son and there was friendship between them. I don't know how they got signed blank cheque, pro-note, affidavit and other plain documents from my son Narinder Kumar and now they were harassing him that you have to pay us money. Either give money or we would harass you and your family by filing a case against you. Earlier also, they had given complaints against me and my son, which were found false after investigation. Then they filed a case against my son in the Court. Now, my son was under lot of stress due to the harassment given by them. Due to giving harassment by them, my son has consumed some poisonous substance, due to which the condition of my son became more deteriorated, to whom today firstly I took to Sector 32, GMC, Chandigarh and on seeing the unsatisfied treatment of my son there, I took him to private hospital Inscol, Sector 34-A, where my son died during treatment. The death of my son has occurred due to consuming some poisonous substance because of harassment caused by the above said persons. Appropriate legal action be taken against them. I was coming to you for giving the information regarding the death of my son you have met me outside the Hospital. I have got recorded my statement to you, heard and is correct.

Sd/-Dharampal
9646130633

attested
Sd/- Surjit Singh
ASI PP, Bus Stand Rajpura
dated 18.10.2016.

Police Action : At Police Station City Rajpura has been received that Narinder Kumar s/o Dharampal, resident of Old Rajpura due to consuming some poisonous thing is admitted in Sector 32, GMC, Chandigarh.”

It is also relevant to refer to the suicide note recovered from the

deceased Narinder Kumar, which reads as under :-

“I, Narinder Kumar, son of Dharampal Sharma is giving my statement in full sense. I have badly teased by them. Their name is Rimpny, Kush Rose, Sarb Kamboj, Bittu (Charanjeet Singh Kamboj). I have been harassed by them and have lot of pressure upon me. They have usurped my money and on the contrary have levelled allegation against me. After my death, they should not be spared.

Sd/-

Narinder Kumar

Further father, I am sorry. Please forgive me. I have badly spoiled your name. I have insulted you every where. Father please forgive me. Now no will tease you and now you will not be require to give money to anyone. Father, please take care of the mother and please also take care of yourself. Now I am not going to put you under trouble any more. Sorry father and please, after my death, please do not trouble Armoni. She has cooperated me a lot. When every one left me, then both you and Armoni cooperated me. Father, she is very good girl. I with my folded hands, request you not to ask anything from her. She do not know anything and she has done nothing.

Sd/-

Sorry father and mother

Narinder Kumar”

Counsel for the petitioner has argued that, in fact, the petitioner

No.2-Devinder Singh @ Rimpny has filed a complaint under Section 138 of

the Negotiable Instruments Act against deceased Narinder Kumar prior to registration of the impugned FIR as a cheque amounting to Rs.12,00,000/- given by deceased Narinder Kumar was dishonoured by the bank and, therefore, petitioner No.2, well within his right was pursuing his legal remedy against the deceased.

Counsel for the petitioner further submits that even a legal notice was issued to the complainant-Dharam Pal, father of deceased Narinder Kumar for dishonouring of the cheque of Rs.1,20,000/- and, therefore, there was a money dispute between the petitioners and the deceased as well as his father. The counsel for the petitioner has further argued that from the bare perusal of the FIR, no offence under Section 306 IPC is made out as the ingredients of abatement as per Section 107 IPC are missing from the bare reading of the FIR as well as the suicide note. Counsel for the petitioner further argued that there is nothing on record to show that the petitioners immediately before the commission of offence have acted in a manner that abated the deceased to commit suicide. Counsel for the petitioner has relied upon judgment in case “Ram Sarup Vs. Ravi and others”, 2012(5) RCR (Criminal) 594, wherein this Court held that since the FIR did not suggest any wilful act or omission or an act of intentional aiding or instigating the deceased and basic ingredients of constituting an offence are not made out, such pressure tactics adopted by the complainant to avoid the liability of satisfying loan is nothing but abuse of process of law. A perusal of the judgment further shows that in the suicide note it was stated by the deceased that he had taken a loan and is unable to pay the loan and,

therefore, he was committing suicide as the accused persons were asking for repayment of the loan amount.

Counsel for the petitioner further relied upon judgment dated 22.5.2018 passed in CRM-M-2068 of 2012 titled as “A.R. Madhav Rao and others Vs. State of Haryana and another”, wherein this Court has quashed the FIR under Sections 306/34 IPC holding that if from the contents of the suicide note and the other contending circumstances abatement within 306 read with Section 107 IPC is not made out, and there is no tangible and clinching material on record in support of allegations/charge against the accused person, the FIR can be quashed.

In reply learned State counsel, on instructions from the Investigating Officer and on the basis of the reply filed on behalf of the DSP, Rajpura, District Patiala has argued that during the investigation it was found that deceased Narinder Kumar committed suicide on being constantly harassed by Rimpay, Kush Rose, Sarb Kamboj, Bittu (Charanjeet Singh Kamboj) and during investigation three persons were found innocent. It is further submitted that on completion of the investigation when sufficient evidence was collected by the prosecution, the challan under Section 173 Cr.P.C. was presented as deceased committed suicide because he was under continuous harassment given by the petitioner. It is further stated that the deceased had consumed some poisonous substance and he was taken to Government Medical College and Hospital, Sector 32, Chandigarh for treatment and died during the treatment. It is also stated in the affidavit that during investigation it was found that the accused persons were giving

complaints against complainant and his deceased son Narinder Kumar which were enquired into and found to be false and despite that they were putting pressure on them. Learned State counsel has further submitted that after framing of the charge, the case is now fixed for recording of the prosecution evidence. Even the statement of the complainant-Devinder Kumar has already been recorded who has supported the prosecution version.

Learned counsel appearing for complainant-respondent No.2 has further submitted that cheques were misused by the petitioners and false complaints were given by the petitioner before the police authorities, which was inquired into and found to be false by the DSP, Rajpura.

Counsel for the complainant relied upon the statement of deceased Narinder Kumar, which was recorded by DSP, Rajpura during the enquiry of the complaint given by the petitioners, wherein the DSP found that the petitioners have given a false complaint for return of money from the deceased and still petitioners were harassing the deceased to such an extent that he committed suicide.

After hearing learned counsel for the parties, I find no ground to quash the FIR.

A perusal of the FIR and the suicide note clearly indicates the petitioner by giving details of harassment being caused to deceased Narinder Kumar and it was stated and even the complaints given by the petitioner against deceased were inquired into by the police and were found to be false, therefore, the element of harassment at the hands of the petitioner, which was

enquired by the police and found to be false is apparent on the face of the FIR. Even otherwise, the case is now fixed for the prosecution evidence and the complaint has appeared and duly supported the prosecution version. Therefore, from the bare reading of the FIR and the suicide note, it cannot be held that the element of abatement as per Section 107 IPC is missing in the evidence of the prosecution.

Accordingly, the petition is dismissed.

However nothing observed herein shall have any bearing on the merits of the case and it will be open for the petitioners to raise all the defence/pleas before the trial Court.

February 15, 2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO