

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 771 of 2019

Date of Decision: December 05, 2019

Harjit Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. A.D.S. Sukhija, Advocate
for the petitioner

Mr. Amandeep Singh Gill, Sr. DAG Punjab

Sudhir Mittal, J.

The petitioner is in revision against order dated 14.02.2019 whereby charges have been framed against the petitioner under Section 306 IPC.

2. One Ram Kirpal worked as an LIC agent and he allegedly committed suicide on 11.07.2016. Thereafter, allegedly, while going through his belongings his wife Nirmla Devi discovered a diary in which a suicide note was found. The petitioner was amongst those mentioned in the suicide note. Consequently, FIR dated 06.09.2017 was registered under Sections 306, 34 IPC against the petitioner and some others. After investigation, the police prepared a cancellation report dated 09.03.2018. Nirmla Devi felt that the police was conniving with the accused persons and, therefore, she approached this Court through CRM-M-43347 of 2016. Vide order dated 23.10.2017, the said petition was dismissed as withdrawn as learned State counsel had submitted that all efforts were being made to complete

the investigation expeditiously. Thereafter, a miscellaneous application viz. CRM-5159-2018 was filed for revival of the petition. Order dated 19.03.2018 was passed restraining the police from filing the cancellation report. Consequently challan dated 10.10.2018 was presented resulting in framing of charges as mentioned hereinabove.

3. Learned counsel for the petitioner submits that after completion of investigation, the Investigating Agency had prepared a cancellation report as it did not find the petitioner and his co-accused guilty of commission of any offence. The cancellation report could not be presented on account of the restraint order passed by this Court. The challan dated 10.10.2018 is identical to the cancellation report dated 09.03.2018, apart from the following lines in the last para :-

“The viscera report no. 4575 of deceased Ram Kirpal has been received according to which Ram Kirpal died due to ALUMINIUM PHOSPHIDE poisonous substance and is attached after taking opinion for the doctor. From the investigation till date, statements of witnesses, FSL report and viscera report any my verification, sufficient evidence has come on record to file challan against Harjit Singh son of Nasib Singh resident of Sainimajra and Raghbir Singh son of Malkit Singh resident of village Sanghala, PS Mullanpur Garibdass, District SAS Nagar under Section 306, 34 IPC.”

4. Merely because the deceased consumed poison, it can not be said that the petitioner and his co-accused abetted the commission of suicide. Further, the deceased was an LIC agent and he had issued an insurance policy to co-accused Jaswinder Kaur. Upon maturity thereof a sum of Rs. 17,32,500/- was to be paid to her but Ram Kirpal misappropriated the money and deposited the same in the account of his son and wife Nirmla Devi. Thus, said Jaswinder Kaur had got FIR

No. 128 dated 21.07.2017 registered against Ram Kirpal under Sections 406, 420 IPC. The registration of an FIR can not lead to the conclusion that the complainant thereof and those who helped in the registration of the case were guilty of abetment of suicide. Thus, framing of charges is illegal and the petitioner is entitled to be discharged. Reliance is placed upon ***Union of India vs. Prafulla Kumar Samal and another, 1979 AIR (SC) 366.***

5. Learned State counsel submits that the FIR was registered only after discovery of the suicide note. This note has been got examined through FSL Mohali and the report thereof opines that the said suicide note was in the handwriting of the deceased Ram Kirpal. The suicide note contains the following lines:-

“They made be append signatures on four stamp paper by pointing a pistol upon me and got two blank cheques. My family is in danger at their hands. They all are blackmailing me. They got police amount, they got this amount from me in case. Harjit Singh and Jaswinder Singh got their son killed in connivance with each other, if they could have got their son murdered, they they can also get me and my family killed. They are threatening again and again and blackmailing that while complaining to the police, they will have the DSP arrest us and can get us killed, as such, I am finishing my life and there is no fault of my family in the same. I did not know that these people are like this type. People, who could perform anything with their son, can also do with me.”

At the time of framing of charges, the Court is only required to see whether a *prima facie* case is made out against the accused and the evidence on record by way of challan as well as the documents attached therewith establish in a

prima facie case against the petitioner and his co-accused. Thus, the framing of charges is legal and valid.

6. Learned counsel for the State has also submitted that the trial is nearing completion as out of a total of 24 PWs, 10 PWs have been examined. The complainant has already been examined. Thus, the charges be not quashed.

7. In the case of ***Prafulla Kumar Samal (supra)*** the Supreme Court has held that while exercising jurisdiction under Section 227 Cr.P.C. the Court is only required to sift through the evidence on record for the purposes of finding whether the said evidence raises a suspicion against the accused and whether it establishes a *prima facie* case against them. The accused will be discharged only if there is no sufficient ground for proceeding against them which implies that even a *prima facie* case does not exist. This would happen only if the evidence sought to be produced by the prosecutor, even if accepted fully, would not show that the accused had committed any offence.

8. The aforesaid test stands satisfied in the instant case. Apart from statements of witnesses recorded under Section 161 Cr.P.C., the report of FSL Mohali shows that the suicide note was written by the deceased Ram Kirpal himself. The contents of the suicide note show that the petitioner and his co-accused were harassing the deceased person and that he was in mortal fear. The criminal proceedings were initiated against the deceased for the offence committed by him would not justify their actions as mentioned in the suicide note. Whether their actions amount to abetment of suicide or not is a matter that I would refrain from opining on as the trial is in progress. Thus, the evidence on record establishes a *prima facie* case against the accused persons as it raises suspicion against them. The trial Court was, thus, justified in framing charges.

9. The petition is without any merit and is dismissed.

10. Since the petition has been dismissed on merits, I refrain from opining upon the argument of the learned State counsel that the trial is now nearing completion.

December 05, 2019

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No