

102.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6549-2017

Date of decision: 30.08.2019.

BERO AND ORS.

... Petitioners

versus

STATE OF HARYANA AND ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rahul Jaswal, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana,
for respondent No.1.

Mr. Sagar Aggarwal, Advocate, for
Mr. Ashit Malik, Advocate,
for respondent No.2.

HARI PAL VERMA, J. (Oral)

Petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of FIR No.0669 dated 21.10.2016 registered under Sections 306/34 of IPC at Police Station Samalkha, District Panipat (Annexure P-1) and all subsequent proceedings thereof.

The aforesaid FIR was registered at the behest of respondent No.2-Jaiveer Singh, who is husband of the deceased-Saroj, who allegedly committed suicide after consuming some poisonous substance. The contents of FIR are reproduced below:-

“It is submitted that I Jaibir Singh son of Shri Puran Singh, Caste Jaat, am a resident of Village Karhans. In addition to agriculture, I deal in the sale/purchase of buffaloes. That Jagdish son of Dayal Singh, caste: Saini, resident of

Bharat Colony, Samalkha across the lines, was purchasing buffaloes from me and gave me money. About 6 months back, Jagdish has purchased 6 buffaloes from me for an amount of Rs.4,45,000/-. He had promised to pay the amount within one month. Jagdish did not give me the amount within one month. I had to pay the money further to someone, therefore, I and my wife were very upset. On repeatedly demanding, Jagdish did not give the amount to me. Myself and my wife Saroj went to Bharat Colony, Across the Lines, Samalkha to get the amount, then Jagdish, his wife Veero and sons of Jagdish, Sanju all of them assembled there and started quarrelling with us and asked us, do whatever you like, we will not give the amount and if you again came to our house to demand the money, then we shall eliminate you. That my wife due to fear and pressure of Jagdish and his family members, consumed some poisonous substance. Thereafter, my wife Saroj started vomiting. I was perplexed and was doing by picking my wife in the lap, then by chance, Satbir, Village Mandi, who is my shareholder, met me on the way and I told him all the circumstances. We both were going to take my wife to the Hospital, but my wife died on the way. This incident has occurred at about 08.00 a.m. Strict legal action be taken against Jagdish and his family members and I may be imparted justice.”

Learned counsel for the petitioners has argued that the petitioners (petitioner No.1 is the wife of Jagdish, whereas petitioners No.2 and 3 are sons of Jagdish) had no connection with the deceased whatsoever. They have falsely been implicated in the case. No offence is made out against them. Even if the story of the complainant is accepted on its face, still there is not even a single allegation of provoke against the petitioners so as to abet the deceased to commit suicide. Therefore, the basic ingredients

suicide, is missing. In fact, respondent No.2-complainant had a matrimonial dispute with his deceased wife, but in order to cover up that dispute, the petitioners have falsely been implicated in the case. The story propounded by the complainant is highly doubtful and illogical, as respondent No.2 himself had stated that the deceased accompanied him to the house of the petitioners. Assuming for the sake of argument that respondent No.2 has accompanied the deceased and the money was not paid to them, it was incumbent upon respondent No.2-complainant to dissuade the deceased from taking the extreme step of committing suicide.

He has relied upon judgments of Hon'ble Supreme Court rendered in *Rajesh Versus State of Haryana-Criminal Appeal No.93 of 2019 (arising out of SLP (Crl.) No.8667 of 2016, decided on 18.01.2019)*, *Gurcharan Singh Versus State of Punjab-2017 AIR (SC) 74*, *Swamy Prahaladdas Versus State of M.P. and another-1995 SCC (Cri) 943*, *S.S. Chheena Versus Vijay Kumar Mahajan and another-2010(12) SCC 190* to contend that the allegation of abetment to commit suicide is not sustainable on the mere allegations of harassment without there being any act action proximate to the time of occurrence, on the part of accused which led or compelled the person to commit suicide. In order to bring the case within the ambit of Section 306 IPC, there must be a case of suicide and in commission of the said offence, the person, who is said to have abetted commission of suicide, must have played active role by act of instigation or by doing certain act to facilitate commission of act of suicide.

He further states that the basic ingredients of Section 306 of IPC are suicidal death and the abetment thereof, and to constitute abetment,

commission of suicide, is imperative. Merely because there was a dispute of some payment of money, is not sufficient enough to involve the whole family of the accused in the case. Moreover, the petitioners are not the persons who have been dealing in the sale and purchase of buffaloes as alleged by the complainant.

On the other hand, learned State counsel, who is assisted by SI Dinesh Kumar, has submitted that challan in the case has been presented against the accused including the petitioners and, therefore, the petition filed by the petitioners for quashing of FIR is not maintainable, as it is during the course of trial, the innocence of the petitioners can be proved.

Learned counsel for the complainant has also supported the arguments of the learned State counsel and states that since the petitioners are beneficiaries of the amount so advanced to Jagdish and they were required to repay the amount, but the non-payment of the same led to the extreme step of commission of suicide by the deceased.

I have heard counsel for the parties.

A bare perusal of the FIR, reproduced above, does reflect that about 6 months back (i.e. from the date of FIR dated 21.10.2016), Jagdish, who is husband of petitioner No.1 and father of petitioners No.2 and 3, had purchased 6 buffaloes from the complainant, for a sum of Rs.4,45,000/- and this amount was promised to be paid by Jagdish within one month, but the said amount was not paid. The complainant was further required to pay the said amount to some other person, and it is for this reason, the deceased was upset. Thus, the precise allegation against the petitioners-accused is that Jagdish was required to pay some amount to respondent No.2-complainant

committed suicide. There is no such allegation in the FIR that the petitioners in any manner abetted the deceased to commit suicide or ever harassed the deceased.

As held by the Hon'ble Apex Court in the case of ***Rajesh*** (supra) that abetment to commit suicide is not sustainable on the mere allegations of harassment without there being any positive action proximate to time of occurrence on the part of accused, which led or compelled the person to commit suicide. In order to bring the case within the purview of Section 306 IPC, there must be case of suicide and in commission of said offence, the person, who is said to have abetted commission of suicide, must have played active role by an act of instigation or by doing certain act to facilitate commission of suicide. No active role has allegedly been played by the petitioners, so as to facilitate the deceased to commit the extreme act of suicide. Even remotely, there is no allegation that the petitioners ever harassed the deceased or uttered any word compelling the deceased to commit suicide.

In view of above, this Court finds that the FIR in question deserves to be quashed qua the petitioners.

Accordingly, the present petition is allowed and the FIR No.0669 dated 21.10.2016 registered under Sections 306/34 of IPC at Police Station Samalkha, District Panipat (Annexure P-1) and all subsequent proceedings thereof, are quashed qua the petitioners.

(HARI PAL VERMA)
JUDGE

30.08.2019

sanjeev

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No