

IGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2698-2023

Date of Decision: 06.02.2023

Sukhpal Singh

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikas Bishnoi, Advocate for
Mr. BS Jatana, Advocate for the petitioner

Sandeep Moudgil, J.

The petitioner seeks quashing of the judgment dated 25.07.2022 (Annexure P9) passed by Sessions Judge, Mansa vide which the criminal revision against the order dated 24.03.2022 (Annexure P7) passed by ACJM, Mansa vide which the petitioner has been discharged in FIR No.360 dated 25.08.2020 under Sections 304-A IPC registered at Police Station Sadar Mansa, District Mansa (Annexure P2) has been allowed.

Learned counsel for the petitioner submits that Gurlal Singh son of Teja Singh resident of village Kot Dharmu, died an unnatural death on 11.03.2020. Postmortem examination on his dead body was conducted at Civil Hospital, Mansa on 12.03.2020. Gurlal Singh was married to Simarjit Kaur around 15 years back. The couple had a son aged 13 years. Gurlal Singh practiced agriculture on 2 Killas of land. To supplement his income he was doing a Small business of dairy. As a matter of routine, on 11.03.2020 at around 6.00 PM, Gurlal Singh had gone to the dairy of Sukhpal Singh to supply milk. Due to bad weather, Gurlal Singh was struck by lightening as a result of which he died. The police conducted proceedings under Section 174

of the CrPC and did not proceed further considering that it was a case of natural death. It was on 12.05.2020 that an application was moved by Simarjit Kaur widow of Gurlal Singh to the SSP, Mansa that on 11.03.2020 at around 6.00 PM, her husband Gurlal Singh had left home to supply milk. In the milk drum there was around 25 litres of milk. At the place owned by accused Sukhpal Singh, where Gurlal Singh was to supply milk there was electronic weighing scale which was directly linked to the electric transformer. The deceased tread upon the said weighing scale which was defective. He got electrocuted. It was due to the rash and negligent act of the dairy owner Sukhpal Singh that the accident had occurred.

On the basis of the application moved by Simarjit Kaur widow of Gurlal Singh that the instant FIR under Section 304-A was registered against accused Sukhpal Singh. An investigation was conducted by the police and the postmortem report was collected which suggested that the cause of death was due to electrical burns. The presence of entry wound and exit wound on the body was shown. The police collected documentary evidence from the PSPCL, recorded statements of witnesses Gurmail Singh, Teja Singh and others before concluding that it was a fit case to try accused Sukhpal Singh (the petitioner) under Section 304-A of the IPC.

The trial Magistrate vide order dated 24.03.2022 held that there was no ground to frame any charge against the petitioner because the investigating agency had not concluded as to what was the rash and negligent act on the part of the petitioner. Admittedly the petitioner was the owner of the dairy. The presence of the deceased at the relevant time at the dairy of the

petitioner was not disputed. It was the case of the petitioner that the deceased had died a natural death.

The said reasoning did not find favour with the revisional court holding that the Magistrate had gone far ahead than the limited scope of appreciation of the material available on the record at the stage of section 239 and 240 of the CrPC and probably, the Magistrate did not look into the postmortem report, according to which, the three injuries were noticed on the person of the deceased.

Having heard learned counsel for the petitioner.

On examination of material and evidence on record, it is absolutely clear to this Court that it is not a case of death due to striking of lightening from the sky. Because there was the presence of an entry wound and exit wound, it was *prima facie* a case of burns due to electronic equipment and also that the petitioner had not denied the fact that the deceased had visited his premises where an electronic weighing scale was installed by the petitioner. It is certainly a matter of evidence as to whether there was no fault on the part of the petitioner or that the death of the deceased was result of rash and negligent act of the petitioner. The revisional court thus came to the conclusion and rightly so that a *prima facie* case was made out against the petitioner under Section 304-A of the IPC. The probable defences raised by the petitioner is a subject matter of trial and that the trial court should not have thrown out the case of the prosecution, at the preliminary stage. The charges levelled against the petitioner by the complainant, investigated by the police, certainly deserved to be tried by the court of law.

Accordingly, this Court is of the considered view that there is no illegality or perversity in the order passed by the revisional court dated 25.07.2022 and the same deserves to be sustained.

For the reasons mentioned above, this Court does not find any ground to interfere with the order passed by the revisional court.

Accordingly, the present petition is dismissed.

06.02.2023
V.Vishal

- 1. Whether speaking/reasoned?*
- 2. Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No