

(2006) 10 P&H CK 0120

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 8105-M of 2006

Dalip Singh and another

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Oct. 11, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 306

Citation: (2006) 4 RCR(Criminal) 900

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Advocate: M.S. Lobana, for the Appellant; S.S. Chahal, A.A.G., for the Respondent

Final Decision: Allowed

Judgement

T.P.S. Mann, J.

The petitioners are seeking quashing of FIR No. 29 dated 20.5.2005 registered at Police Station Hajipur u/s 306 IPC.

2. The aforementioned FIR was registered on the basis of a statement made by Satish Kumar, son of deceased Lekh Raj. It was alleged by Satish Kumar that he was resident of village Hajipur and running a tea shop in the village. There was a shop in the front portion of his house which had been given on rent by his grand-father Mangat Ram in the year 1976 to Dalip Singh petitioner on monthly rent of Rs. 20/-. Dalip Singh had been paying the rent regularly to Lekh Raj, as increased from time to time and in the year 2005, the monthly rent was Rs. 300/-. On 30.4.2005 at 8.00 p.m. Dalip Singh paid the rent of the shop to deceased Lekh Raj but told him that he should not come to take the rent in future because he had purchased half share in the shop and the house from Hem Raj petitioner, who was none-else but real brother of deceased Lekh Raj. However, Satish Kumar claimed that his uncle Hem Raj had no concern with the house and the shop, as for the last about 40 years deceased Lekh Raj was residing with his family in the same. From that day onwards,

when Lekh Raj came to know about the execution of the sale deed, he started feeling depressed and all the time was worried and brooding. Day by day, his health weakened and ultimately on 29.5.2005, Lekh Raj died on account of shock. It was alleged in the FIR that Dalip Singh and Hem Raj petitioners, were responsible for the death of Lekh Raj, as Hem Raj sold half share of the house and the shop to Dalip Singh. Accordingly, FIR u/s 306 IPC was registered.

3. Counsel for the petitioners has submitted that a bare perusal of the FIR showed that even if all the allegations levelled therein were taken to be correct, the same did not disclose the commission of any offence, much less u/s 306 IPC. Further that the house and the shop were rented by Mangat Ram, who died in the year 1978. He was survived by two sons, namely, Lekh Raj deceased and Hem Raj petitioner. On 3.2.2004, Hem Raj executed a sale deed in respect of his half share in the house and shop in favour of Dalip Singh petitioner. Thereafter, a civil suit was filed by Dalip Singh on 14.5.2005 for possession by way of partition of house and shop against Lekh Raj deceased and Hem Raj, besides seeking permanent injunction with consequential relief of restraining Lekh Raj deceased from changing the nature of the property in dispute. Copy of the plaint has been placed on the record as Annexure P-2. Vide order dated 16.5.2005 Civil Judge (Junior Division), Dasuya directed the parties to maintain status quo regarding the existing possession of the property in dispute till 31.5.2005. Later on, an application was filed by Dalip Singh for appointing a Local Commissioner to visit the spot, as he alleged that Lekh Raj was proceeding with the construction of the house in dispute. The Local Commissioner visited the spot on 25.5.2005 after service of notice on both the parties, including Lekh Raj deceased. Lekh Raj also moved an application to the police that his brother Hem Raj had wrongly sold half share of the house and shop to Dalip Singh by registered sale deed despite the fact that his brother Hem Raj had no concern with the same and that Hem Raj had cheated him by executing a false sale deed.

4. Referring to the post-mortem report in respect of deceased Lekh Raj, counsel for the petitioners pointed out that against the column "information by police", it was recorded that the deceased "alleged to have died of heart attack."

5. Per contra, learned counsel for the State has submitted that the death of Lekh Raj was on account of circumstances created by the present petitioners, as Dalip Singh was a tenant under deceased Lekh Raj and later on claimed to have purchased half share in the house and the shop from Hem Raj, although Hem Raj had no concern with the said two properties.

6. It is a case where Lekh Raj is alleged to have died of heart attack. Apparently no third person would be responsible for anyone suffering heart attack and dying as a result thereof. However, the prosecution has alleged that it were the petitioners, who created circumstances under which the deceased became depressive and his health deteriorated, which finally led to his suffering the heart attack. Whether the

aforementioned act of the accused would make them liable for leading the victim to the point where his death was the normal consequence of the acts of the accused, requires to be analysed.

7. Admittedly, it is not a case of commission of suicide, although, the prosecution has implicated the petitioners u/s 306 IPC as if they had created circumstances for the deceased in such a manner that he had no other option but to end his life. Here it is a case of Lekh Raj deceased dying allegedly because of heart attack. The death was on account of natural causes and not on account of any of the circumstances created by the petitioners. Even if it is taken that because of the circumstances created by the petitioners, Lekh Raj went into depression and finally suffered heart attack as a result of which he died, it cannot be said that the petitioners could be hauled up for its abetment. They did not create any such circumstance from which it could be inferred that they abetted the doing of a thing which made them liable for the offence u/s 306 IPC. Section 107 IPC defines abetment as under :-

107. Abetment of a thing. -

A person abets the doing of a thing, who -

First - Instigates any person to do that thing; or

Secondly - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly - Intentionally aids, by any act or illegal omission, the doing of that thing.

8. None of the requirements which could indicate that the petitioners abetted the death of Lekh Raj are available in the facts and circumstances of the case of the prosecution. As per the FIR itself, Hem Raj had executed a sale-deed in respect of half share in the house and the shop in favour of Dalip Singh. On the basis of the aforementioned sale-deed, Dalip Singh had filed a civil suit for possession by way of partition of the property against Lekh Raj. There is no allegation that Dalip Singh had not purchased the property in question or that he was trying to illegally interfere in the possession of Lekh Raj. To begin with, he purchased half share in the property by way of a registered sale-deed. Later on, he approached the Court of law, seeking a decree for possession by way of partition of the property. All the time, Dalip Singh petitioner was trying to take recourse to the legal remedies so as to reap the fruits of his investment. Even before the execution of the sale- deed, he was regularly paying rent to Lekh Raj deceased. At no point of time, did he ever commit any default in the same.

9. Even if it is taken that the petitioners were illegally interfering in the ownership of the deceased over the shop and the house and resultantly Lekh Raj started feeling worried and became depressive, it can be said to be a case of over-sensitive nature of the deceased and not directly as a result of the alleged purchase of half share in

the property by Dalip Singh from Hem Raj and later on Dalip Singh telling Lekh Raj not to claim rent from him in future. In such an event, the petitioners could not be made responsible for creating those circumstances which directly led to the death of Lekh Raj. In any case, no offence u/s 306 IPC was made out.

10. In view of the above, the present petition is accepted and FIR No. 29 dated 30.5.2005 registered at Police Station Hajipur u/s 306 IPC is quashed. All the proceedings taken thereunder are set aside.