
(2010) 12 P&H CK 0326

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-11728 of 2010

Babu Ram, Jaspal Singh and Balbir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2010) 12 P&H CK 0326

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Judgement

S.S. Saron, J.—This order will dispose of CRM M-11728 of 2010, filed by Babu Ram son of Moman Ram, SHO Police Station Barwala, CRM M-13327 of 2010 filed by Jaspal Singh son of Rajender Singh and CRM M-19172 of 2010 filed by Balbir Singh son of Ram Kumar.

2. Heard learned Counsel for the parties.

3. The Petitioners seek regular bail in a case registered against them on 13.07.2009 at police station Sadar, Hisar. The case was registered for the offences under Sections 302/34 IPC. After completion of investigation, the charge report (challan) has been filed for the offences u/s 304/34 IPC. It is not in dispute that the learned trial Court has framed charges against the accused for the offence u/s 304/34 IPC.

4. The FIR in the case has been registered on the statement of Subhash who had gone to village Balak. On 27.07.2009 at about 11:00 AM., he was at the farm of his sister Mukesh wife of deceased Krishan Kumar resident of village Balak as his brother-in-law had made a farm house there. At that time, the father of the complainant namely Mahender, his brother-in-law Krishan (deceased) and his elder brother-in-law Chander Bhan were irrigating the fields. Then Babu Ram SHO P.S. Barwala (Petitioner in CRM M-11728 of 2010) accompanied by Raghubir and with other persons from the public came in a separate Tata Indica vehicle

and they misbehaved and insulted the complainant side. The complainant requested them not to do so, but they paid no heed. The names of the persons from public are mentioned in the FIR. The police personnel misbehaved and forcibly took Krishan (deceased) and his maternal uncle Kuldeep with them. The persons from the police and the public who came along with the police got Krishan (deceased) and Kuldeep with them. On 30.07.2009 at about 11:00 AM when the complainant inquired at police station Barwala regarding the whereabouts of Krishan and Kuldeep; then at that time the nephew of the complainant namely Bijender son of Umedh received a telephone call that Krishan had died. The complainant after coming to Civil Hospital, Hisar had seen the dead body of Krishan in the hospital. His neck was fractured and one leg and an arm were also fractured. There were marks of injuries on his person. Babu Ram SHO PS Barwala (Petitioner in Crl. Misc. No. M-11728 of 2010) and other police officials and the persons from the public who picked up Krishan in connivance with the police and employees of CIA staff Hisar were behind the murder of brother-in-law of the complainant. Raghubir an employee of Barwala police was also with them. They all in connivance with each other had killed the brother-in-law of the complainant. The motive for the incident was that on 17.07.2009 Krishan (deceased), Kuldeep, Zile Singh and Dhola @ Satbir had gone to Haridwar. They reached Ambala station on 19.07.2009 and after that Krishan (deceased), Kuldeep and Dhola @ Satbir had returned back to their village Balak but Zile Singh did not come back. In this regard Satyawn son of Chandan, Bajender son of Balwan Sarpanch, Shri Gopal son of Pirthi Patwari, Jaipal son of Dalipa, Dhara son of Banwari, and Ramphal son of Ramdhari residents of village Balak had moved a false application against Krishan and others and they were nursing a grudge against Krishan.

5. In the magisterial inquiry conducted, the Petitioners were indicted. The challan, as already noticed, has been filed and the charges have been framed. Babu Ram SHO PS Barwala is in custody since 10.08.2009. The death in the present case of Krishan Kumar is in the precincts of CIA staff. According to Babu Ram SHO PS Barwala, he has got nothing to do so with the officials of CIA staff and therefore, he has been falsely implicated. The learned Judicial Magistrate First Class, Hisar, who conducted the inquiry in his inquiry report dated 10.09.2008 concluded that it appeared that Krishan Kumar @ Karru died on 30.07.2009 at noon time while he was in custody of the CIA staff, Hisar. As per the evidence of the officials/doctors collected at General Hospital, Hisar, Krishan Kumar @ Karru was brought dead. It was also mentioned in the statement of Kuldeep corroborated by Babu Ram Inspector, Raghubir Singh ASI, EHC Jagmender Singh and HC Ashok Kumar of police station Barwala who authenticated the injuries suffered by deceased Krishan as mentioned in the post mortem. There are several accused in the case. The case of Babu Ram is somewhat similar to that of ASI Raghubir Singh, who has been granted concession of bail, vide order dated 04.03.2010.

6. The Petitioner Jaspal Singh in CRM M-13327 is in custody since 15.12.2009.

He has not been named in the FIR. The complainant initially did not give his name as an accused. It is stated by his learned Counsel that nothing incriminating has come on record against Jaspal Singh. The Petitioner-Jaspal Singh has been named as an accused in the supplementary statement of Subhash which was recorded on 20.05.2009. According to the learned Counsel for the Petitioner Jaspal Singh, the complainant Subhash is not an eye-witness to the occurrence, besides no motive has been alleged against him. The Petitioner, however, is posted at CIA Staff, Hisar, where the death of Krishan is said to have taken place. However, the guilt of the Petitioner is to be established after the evidence has been led in the case.

7. Insofar as Balbir Singh (Petitioner in CRM M-19172 of 2010) is concerned, he is in custody since 02.03.2010. The Petitioner Balbir Singh was SHO CIA Staff, Hisar. According to him, the interrogation was carried out by Babu Ram SHO Police Station Barwala at about 11:00 PM and he was left at Police Station Barwala. It is submitted that Balbir Singh (Petitioner) was not involved in the incident. In the judicial inquiry conducted by Shri Tayyab Hussain, Judicial Magistrate First Class, it is submitted that no role has been attributed to him and the inquiry officer has only recorded that the interrogation of Krishan was done by CIA staff, Hisar.

8. Learned Counsel for the State and the complainant have opposed the grant of bail. It is stated that in view of the inquiry report of the learned Judicial Magistrate Ist Class, Hisar, the Petitioners are not entitled to the concession of bail.

9. It may however be noticed that the Petitioners are in custody since quite some time. The trial in the case is likely to take time. The guilt of the Petitioners as regards the death of Krishan is to be established by leading evidence. Besides, the charge that has been framed is for the offence punishable u/s 304/34 IPC.

10. In the aforesaid facts and circumstances, the respective Petitioners in each of the petitions on their furnishing personal bonds and surety each to the satisfaction of the learned Chief Judicial Magistrate, Hisar, shall be admitted to bail.

11. The petition stands disposed of.