
(2008) 04 P&H CK 0025

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 35319-M of 2007 (O and M)

Kiran Bala and another

APPELLANT

Vs

The State of Punjab and another

RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 107, 306, 34

Citation : (2008) 3 RCR(Criminal) 427

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Advocate : M.S. Bedi, for the Appellant; K.S. Pannu, AAG, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—This petition u/s 482 of the Code of Criminal Procedure has been moved for quashing the FIR No. 40 dated 16.5.2007 u/s 306/34 IPC registered at Police Station Division No. I, Pathankot being a gross abuse of process of Court.

2. The allegations against the petitioners in the FIR read as under:-

"Statement of Ram Lal son of Bihari Lal, Caste Arya, resident of Khojpur, Police Station Sadar, Gurdaspur, aged about 40 years. I am a resident of the abovesaid address and is an agriculturist. We are three brothers, the elder to me was Mohinder Pal and Hari Ram and myself and Hari Ram reside separately with families in the village. Mohinder Pal with his family lives in Kalka. My brother Hari Ram has four daughters and one son. My brother's elder daughter Kiran Bala after doing 10+2 used to come to Ranjit Bagh, Bus stand, for learning sewing and embroidery. On 14.5.2007 like every day she left the house. At about 11.00 A.M. my brother Hari Ram informed me that he has come to know from Sewing Centre that today Kiran has not gone there. We got suspicious that Kiran Bala has been enticed by Rahul son of Tarsem, Caste Julaha, resident of Gharala by

alluring to marry her. We both brothers left to search her to different places, I came back home in the evening but Hari Ram did not come back. Next day on 15.5.2007 at about 7:00, the daughter of our neighbour Chaman Lal came to our house and informed that there is a telephone call for you and my Niece after attending the telephone call of Hari Ram informed me that Daddy is sitting outside the Bus stand of Pathankot. He said that come and take me, on which I along with Karnail Singh, resident of Paniar, who was with me on that night reached outside the bus stand, Pathankot, and saw that my brother Hari Ram was lying on the footpath. We made him sit and gave him water and enquired from him on which he told us that Kiran Bala is with Rahul son of Tarsem Lal. Last evening Kiran Bala, Rahul, Tarsem Lal and wife of Tarsem Lal met me at the bus stand, I beg before them that Kiran Bala be sent back but they did not listen rather they said that in case you want welfare of your family then you should forget about Kiran otherwise you will face consequences. I begged before them but they kept on humiliating me and left. I kept thinking during the night and spent the night at bus stand, I could not foresee anything else. I never wanted to get more insulted. I did not know how to return to my village and I took poisonous medicine thinking that it is better to die than live. Immediately on hearing about the medicine we arranged for a conveyance and brought Hari Ram at Gurdaspur Hospital and admitted him from where he was referred to Guru Nanak Dev Hospital, Amritsar. We got him admitted at Guru Nanak Hospital at Amritsar where at about 12:30 he died while he was being treated. My brother has died on account of humiliation meted out to him by Rahul, Tarsem Lal and wife of Tarsem Lal (unknown) and Niece Kiran Bala. I am complainant against the above said. Action be taken."

The learned counsel for the petitioners contends that the allegations levelled in the FIR taken on face value do not constitute any offence u/s 306/34 IPC.

3. The allegations against the petitioners are that due to the marriage performed by the petitioners, the deceased felt humiliated and therefore, committed suicide.

4. The contention of the learned counsel for the petitioners is that, even if the allegations are taken to be correct no offence u/s 306/34 IPC is made out against petitioners. In support of this contention the learned counsel for the petitioners placed reliance on the judgment of the Andhra Pradesh High Court in the case of v. Shankaraiah (A-3) V. State of A.P., 2002(3) Recent Criminal Reports 702, wherein the Andhra Pradesh High Court has been pleased to lay down as under:-

"4. 'Abetment' in Section 306 IPC has to be understood with reference to its definition given in Section 107 I.P.C. While considering the scope of Section 107 I.P.C. the Supreme Court in Central Bureau of Investigation Vs. v.C. Shukla and Others, observed, in Para 50 at page 1423 as follows:-

"..... a person abets the doing of a thing when he does any of the acts mentioned in the following three clauses.

(i) instigate that person to do that thing.

(ii) engages with one or more other person or persons in any conspiracy for the doing of that things.

(iii) Intentionally aids, by any act or illegal omission, the doing of that thing omission, the doing of that thing."

So far as the first two clauses are concerned it is not necessary that the offence instigated should have been committed. For understanding the word 'aid' in the third clause it would be advantageous to see Explanation 2 in Section 107 IPC, which reads, thus:-

"Whoever, either prior to or at the time of the commission of the act, does anything in order to facilitate the commission thereof, is said to aid the doing of that act."

It is thus clear that under the third clause when a person abets by aiding, the act so aided should have been committed in order to make such aiding an offence....."

Clauses (i) and (ii) extracted above do not apply to this case because no 'instigation' by or 'conspiracy' between the petitioner and the other accused is alleged by the prosecution. The third clause also is not attracted because no 'aid' was given by the petitioner to the deceased when she committed suicide. Aiding suicide by a person can only be by positive acts of assisting in procuring the material required for suicide like a person supplying rope or other material for hanging, when a person expresses his desires to commit suicide by hanging or supplying weapon or material like drugs, poison etc., when the person intending to commit suicide asks, said aid, or if a person suggests the mode in which suicide can be committed like jumping into a river, lake or well, etc., to a person who intends to commit suicide."

5. The learned counsel for the petitioner further cited the judgment of the Hon'ble Andhra Pradesh High Court in the case of Bura Manohar v. State of A.P., 2003 (1) RCR 367 and the judgment of the Punjab and Haryana High Court in the case of Jaikab Pal and Ors. v. State of Punjab, 2006 (3) RCR 84.

6. The learned counsel for the State, however, submits that humiliation is directly attributed to the petitioner, therefore, offence u/s 306/34 IPC is made out and the authorities relied upon by the learned counsel for the petitioner are distinguishable.

7. On consideration of the matter, I find force in the contention raised by the learned counsel for the petitioner. The only allegations levelled against the petitioners are that due to the marriage performed by them the deceased felt humiliated and thereby committed suicide. There is no direct link of the petitioner with the commission of suicide by the deceased.

8. In view of the law laid down in the case of V. Shankaraiah (A-3) v. State of A.P. (supra), Bura Manohar v. State of A.P. (supra) and by this Court in the case

of Jaikab Pal and Ors. v. State of Punjab (supra) no offence is made out against the petitioners. The FIR and the proceedings, therefore, would be nothing but misuse of process of the Court.

Consequently, this petition is allowed. The FIR No. 40 dated 16.5.2007 u/s 306/34 IPC registered at Police Station Division No. 1, Pathankot and subsequent proceedings arising therefrom are ordered to be quashed.