
(1999) 05 P&H CK 0062

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 5048-M of 1998

Ravail Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 14-05-1999

Acts Referred:

Citation : (1999) 4 AICLR 457 : (1999) 4 RCR(Criminal) 12

Hon'ble Judges : K.K.Srivastava, J

Advocate : Vimal Kumar, R.S. Surjewala, Surender Lamba, S.S. Dinarpur,
Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. This is a petition filed under Section 482, Cr.P.C. seeking the quashing of criminal complaint dated 12.3.1997 under Sections 307/34/120B IPC, Annexure P3, Police Station Sadar, Jagadhari and the subsequent proceedings initiated thereunder.

2. The petitioners who pray for the quashing of the impugned complaint and proceedings are Ravail Singh S/o Shri Khajan Singh, his wife Smt. Kulwant Kaur and brother Balwinder Singh, all residents of village Milak Sukhi, Tehsil Jagadhari District Yamunanagar filed by respondent No. 2. Kuldeep Singh S/o Shri Lal Singh, resident of the aforesaid village Milak Sukhi. The allegations made in the impugned complaint copy Annexure P3, briefly stated are as under :

3. The respondentcomplainant, Kuldeep Singh was employed as a Record Keeper in Punjab National Bank Pabni. On 17.12.1996 after attending his duty at the Punjab National Bank aforesaid he returned to his house when his wife Smt. Manjit Kaur told him that Smt. Kulwant Kaur wife of Ravail Singhpetitioner No. 2 had told her that her relative Smt. Jasbir Kaur wife of Shri Joginder Singh, resident of Yamunanagar was missing. Respondent No. 2, after learning about the said incident of Jasbir Kaur missing from her house, left his house with his uncle Jiwan Singh for Yamunagar on a Motorcycle, make Hero Honda bearing

Registration No. UAZ/37. They reached Yamunanagar and enquired about the said occurrence from the relatives and found the information to be false. Respondent No. 2 complainant Kuldeep Singh was coming to his house with his uncle Jiwan Singh on the said Motorcycle which was being driven by the complainant himself while his uncle was sitting on the pillion seat. It was alleged that when the complainant and his uncle reached on the Motorcycle near village Jorodi at about 8.00 P.M. they were hit by a truck which was being driven by Ravail Singh, petitioner No. 1 at a very high speed. As a result of the hitting by the truck, the complainant and his uncle were thrown from the Motorcycle on the Katcha berm and were hit by the left front side projection of the truck which bore registration No. HR/372742. The complainant suffered injuries on his person and fractured his left leg. The Motorcycle was also damaged. Jiwan Singh, uncle of the complainant also received injuries on his head, foot etc. It was further alleged that the accused Ravail Singh and his brother Balwinder Singh got down from the truck aforesaid which halted at some distance ahead of the place of the incident and hurled abuses at the complainant by saying that they had escaped. One Lal Chand S/o Shri Bhagat Singh, resident of Milak Sukhi, the same village as that of the complainant i.e. Milak Sukhi and Darshan Singh S/o Shri Raja Singh resident of Musaimbal reached the place of the incident. Seeing these witnesses arriving at the place of incident, the accused Ravail Singh and his brother Balwinder Singh tried to run away with their truck. The witnesses aforesaid made an attempt to stop the truck but the accused succeeded in taking the truck away from the site of the incident. The complainant and his uncle were taken to the nearby hospital named, Sabharwal Hospital. At the said hospital, Jiwan Singh, uncle of the complainant was admitted and the complainant was referred to the hospital of one Dr. Kohli. The complainant was admitted at the Kohli Hospital, Jagadhari where he was operated upon for his injuries. It was alleged that the accused persons were having illwill with the complainant regarding the dispute about the erection of the electricity poles and they had intentionally caused injuries to the complainant and his uncle by hitting their truck. Later on the complainant learnt about the police registering the case against the accused persons for the offences under Sections 279, 338 IPC with a view to save the accused from the crime which they had committed. In the complaint it was alleged that all the accused had conspired with each other and with the common intention they made an attempt to kill the complainant by hitting with the truck driven by the accused Ravail Singh.

4. The learned Additional Chief Judicial Magistrate, Jagadhari after recording the preliminary evidence passed the order of summoning dated 22.8.1997, copy Annexure P4. The petitioners accused were summoned for the offences punishable under Sections 307, 34 read with Section 120B IPC.

5. The petitioners seek the quashing of the impugned complaint, order of summoning and the proceedings initiated thereunder on the grounds, inter alia, that the complainant respondent No. 2 had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming the compensation of a sum of Rs. 5

lacs against petitioners 2 and 3. Insurance company, which had insured the truck, was also impleaded as a party. In the claim petition the case of accident due to the rash and negligent driving was set up by the complainant respondent No. 2. The claim petition showed that it was a case of accident allegedly caused by rash and negligent driving of the truck by the accused Ravail Singh. The complainant respondent No. 2, however, subsequently developed a mala fide intention and oblique motive and filed the impugned complaint against the petitioners. This complaint was filed with a view to blackmail the petitioners so that maximum amount of money could be extracted from them. It was further contended that the dispute regarding the erection of the poles between the parties which is referred to in the complaint suggested that the complainant had an oblique motive to settle scores with the petitioners. In the facts and circumstances mentioned above the chances of the criminal complaint resulting in conviction were very remote and bleak and no useful purpose will be served in allowing the criminal proceedings to go on as ultimately the same is likely to end in an acquittal.

6. Notice was issued to the respondent State of Haryana and respondent complainant who put in appearance and filed his written statement contending, inter alia, that no case was made out for quashing of the criminal complaint. It was mentioned that the accident was caused on 17.12.1996 and FIR No. 157 was lodged with the Police Station Sadar, Jagadhari on the next date i.e. on 18.12.1996. The respondent complainant remained in the hospital, confined to bed for a period of about three months and when he recovered then the complaint was filed on 14.3.1997 and the claim petition was instituted under Section 166 of the Motor Vehicles Act on 26.3.1997. Identical pleas were taken in the claim petition instituted under Section 166 of the Motor Vehicles Act, 1988 and in the criminal complaint, it was contended that eventually it is a matter of trial as to what case was made out and the complaint could not be quashed at this stage. The copies of the medical certificates issued by Dr. P.K. Kohli showed the injuries suffered by the complainant respondent. The certificate issued by Dr. A.K. Nandra, Annexure R2/3 pointed out that the respondent complainant underwent an additional surgery and remained admitted in the Hospital upto 31.7.1997. It was mentioned further that there was no justification for quashing of the complaint and the summoning order and proceedings flowing therefrom.

7. I have heard the learned counsel for the petitioners and the learned Counsel for the respondent No. 2.

8. It is undisputed that respondent No. 2 filed the complaint which is sought to be quashed in this petition on 14.3.1997 and also filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 after 12 days i.e. on 26.3.1997. The learned Counsel for the petitioners placed on record the certified copies of the order passed by the Motor Accident Claims Tribunal, Yamunanagar at Jagadhari in case No. 32 of MACT dated 11.4.1997, 'Kuldeep Singh v. Ravail Singh and there others" showing that respondent 2 and 3, namely, Shri Balwinder Singh

and Smt. Kulwant Kaur were given up as unnecessary by the counsel for the complainant, Kuldeep Singh. Written statement had been filed on behalf of respondent No. 1 to 3. It appears from the statement of the counsel for the claimant, recorded on 2.5.1998 before the MACT, Jagadhari, that respondents No. 2 and 3, Shri Balwinder Singh and Smt. Kulwant Kaur were given up as unnecessary for the present petition. These respondents were ordered to be deleted by the MACT on the same date i.e. 2.5.1998. The case was taken up for settlement before the MACT on 30.5.1998. Statement of Shri D.C. Kumar, Senior Divisional Manager, Oriental Insurance Company Respondent No. 4 in the main petition was recorded before MACT, Jagadhari which, inter alia, reads as under :

"..... We are ready to settle the claim involved in this claim petition against a sum of Rs. 90,000/ in full and final settlement. The amount of compensation will be deposited within 45 days."

9. On the same date the statement of the complainant Shri Kuldeep Singh was recorded before MACT, Jagadhari which reads as under :

"I have heard the above statement. I accept the offer of the Insurance Company. The award may be passed in my favour."

10. On the basis of the aforesaid statement recorded by the MACT, Jagadhari, the Claims Tribunals passed the judgment on 30.5.1998, a certified copy of which has also been placed on record. The judgment may also be referred to for properly appreciating the controversy involved in this case :

"In view of the settlement arrived at between the claimant and respondent No. 4 before the Lok Adalat, an award of Rs. 90,000/ is passed in favour of the claimant which shall be paid by respondent No. 4 within 45 days from today, failing which respondent No. 4 shall be liable to pay interest at the rate of 12% per annum on the amount of award from the date of petition till the date of payment. Memo of cost be prepared accordingly and file by consigned to the record room.

Announced in open court :

Dated 30.5.1998.

Sd/

Motor Accident Claims Tribunal,

Jagadhari 30.5.1998."

11. Learned counsel for the petitioners submitted that since respondent No. 2 complainant has accepted the amount of compensation of Rs. 90,000/ from the Insurance Company i.e. Oriental Insurance Company, Jagadhari and the Motor Accident Claims Tribunal passed a judgment awarding the compensation of Rs. 90,000/ to the claimant with interest at the rate of 12% per annum from the date of filing of the petition till the date of payment, the respondent No.

2complainant has evidently acknowledged the factum of accident which occurred due to the alleged rash and negligent driving of the truck by petitioner No. 1Ravail Singh. He further pointed out that when the compensation for the accident was awarded and accepted by the complainantrespondent No. 2 in respect of the same occurrence, the impugned complaint filed by him prior to the filing of the claim petition in which the petitioners were summoned for the offence under Section 307 read with Section 120B IPC, could not be legally maintained and the continuance of such a criminal complaint would be an abuse of the process of the Court. He contended that even otherwise it is just and proper to secure the ends of justice and save harassment of the petitioners that the impugned complaint, summoning order and proceedings flowing therefrom should be quashed.

12. Learned counsel for respondent No. 2complainant Mr. Vimal Kumar, on the other hand, contended that consistent plea was raised in the impugned complaint as well as in the claim petition. The claimant is entitled to have his complaint case proceeded against the petitioners as they had intentionally caused the accident with a view to commit murder of the complainant who suffered injuries as a result of the hitting of the truck against the Motor cycle driven by the complainant. Learned counsel for respondent No. 2 defended the summoning order and contended that notwithstanding the settlement of the claim petition by the Motor Accident Claims Tribunal, the criminal complaint could legally be maintained and the same cannot amount to an abuse of the process of Court. He contended that in view of the clear and categorical averment made in the impugned complaint, the pendency of the complaint and the criminal trial against the petitioners would not amount to sheer harassment and it is not necessary in the interest of justice to order for the quashing of the impugned complaint for securing the ends of the justice.

13. It is relevant to note that FIR No. 157 dated 18.12.1996 was registered under Sections 279/337/338 IPC, Police Station Sadar Jagadhari. A copy of the FIR has been annexed as Annexure P1. A perusal of this FIR will go to show that the allegations against the accused were about causing the accident with the truck by driving the same in a rash and negligent manner. The said FIR categorically shows the case of the prosecution being that of rash and negligent driving of the truck by the accused. The offences under which the FIR was registered were punishable under Sections 279, 337 and 338 IPC which provide as under :

"279. Rash driving or riding on a public way. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

337. Causing hurt by act endangering life or personal safety of others. Whoever causes hurt to any person by doing any acct so rashly or negligently as to

endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

338. Causing grievous hurt by act endangering life or personal safety of others. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees or with both."

14. This FIR was registered on 18.12.1996. The impugned complaint was, however filed on 14.3.1997 by respondent No. 2, Kuldeep Singh. Respondent No. 2, Kuldeep Singh also filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 after about 12 days i.e. on 26.3.1997 and a copy of the claim petition has been filed as Annexure P2. In column No. 9 of the claim petition which referred to the name and address of the Police Station in whose jurisdiction the accident by an Motor vehicle took place or was registered, reference was made to Police Station Sadar Jagadhari and FIR No. 157 dated 18.12.1997 under Sections 279, 337 and 338 IPC. Respondent No. 2 complainant thus took a specific stand before the Claims Tribunal that the injuries had been sustained in an accident caused by the truck driven rashly and negligently by the accused petitioner. Respondent No. 2 accepted the offer of the Oriental Insurance Company about the receipt of the compensation of a sum of Rs. 90,000/- for the accident caused by the said truck. The complainant respondent No. 2 had also given up respondents 2 and 3 of the claim petition, namely, Balwinder Singh and Smt. Kulwant Kaur from the array of respondents. In these facts and circumstances, the complainant respondent No. 2 cannot now take a contrary stand that the accused intentionally hit the truck against the motorcycle driven by Kuldeep Singh on which his uncle was sitting on the pillion seat and thus intended to commit their murder and committed the offence of an attempt to commit murder of Kuldeep Singh and his companion by hatching a conspiracy and thereby committed an offence under Sections 307/34/120B IPC. Section 307 IPC provides as under :

"307. Attempt to murder. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts to lifeconvicts. When any person offending under this Section is under sentence of imprisonment for life he may, if hurt is caused, be punished with death."

15. One of the ingredients of Section 307 IPC is an attempt to commit murder

which obviously means an intention on the part of the accused to commit murder. In the case of an accident by rash and negligent driving of the truck this intention of committing murder is obviously absent. The continuance of the complaint by respondent No. 2 after accepting the compensation offered by the Insurance Company in the claim petition case, would be obviously an abuse of the process of the Court. Even otherwise in order to secure the interest of justice it would be just, proper and appropriate to quash the impugned complaint.

16. Consequently, the petition is allowed and the impugned complaint and proceedings flowing therefrom are quashed qua the petitioners.