

Hariom Singh and Others Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-08-2015

Judge : Sushil Kumar Gupta

Appeal No. : Criminal Revision No. 947 of 2013

Appellant : Hariom Singh and Others

Respondent : State of Madhya Pradesh

Judgement :

1. By invoking the supervisory powers of this Court under Sections 397/401 of Cr.P.C., the petitioners have preferred this criminal revision against the impugned order dated 8.10.2013 passed in Sessions Trial No.249/2013, whereby charges under Sections 294, 307 and 307/34 of IPC have been framed against the petitioners.

2. The prosecution story, in short, is that complainant Sundar Singh has lodged a report that a dispute is going on for the last 2-3 months between him and the petitioners as they had installed a submersible pump in the Government hand-pump and the complainant got it removed. On 11.3.2013 at about 7.20 pm when the complainant was in the house alongwith his family, the petitioners, his neighbours, by taking his name were abusing him. As soon as the complainant alongwith his son Ajay Pratap came out from the house, petitioner Amar Singh with intention to kill the complainant fired from his 12 bore gun which hit on the rim

of tractor and from that something hit at the chest of the complainant by which blood started oozing and he fell down. Thereafter, when the petitioners came near to him, Pancham Singh, Ajay Pratap and Dinesh saved him. After registration of the FIR, police conducted the investigation and after completion of the investigation, filed the charge-sheet in the Court of JMFC, Bhind, who committed the case to the Court of Sessions Judge, Bhind, and vide impugned order dated 8.10.2013, learned Sessions Judge, framed the charges for the aforementioned offences against the petitioners. Hence, this revision.

3. Learned counsel for the petitioners submitted that ingredients for the offence under Section 307 of IPC are not made out. He further submitted that learned Trial Court, before framing the charge, did not consider the medical report of complainant/injured. In continuation, he further submitted that according to MLC Report complainant/injured Sunder Singh has sustained simple injury which was caused by hard and blunt object. He further submitted that there is difference between medical evidence and complainant's report which shows that false report has been made against the petitioners. It is also submitted that as per medical report, no such injury was found to have been caused to the complainant/injured which is dangerous to life. Hence, he prayed that the charges framed against the petitioners be set aside and petitioners be discharged from the charges u/s 307 of IPC.

4. On the other hand, learned Panel Lawyer for the respondent has fully supported the impugned order of lower Court and submitted that there is prima-facie and sufficient evidence available on record for framing the charge under Section 307 of IPC against the petitioners. He further submitted that there is prima-facie evidence against the petitioners that petitioner No.3-Amar Singh with intention to kill the complainant fired from his 12 bore gun which hit on the chest of the complainant. He further submitted that prima-facie the ingredients under Section 307 of the IPC are available on the record for framing the charges against the petitioners. Moreover, learned Panel lawyer also submitted that there is ample evidence on record against the petitioners/accused. Hence he prayed for dismissal of the petition.

5. Before coming to the factual aspect of the case, it would be proper to reproduce the relevant provision of Section 307 of the IPC which reads as under:

"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 by life convicts.-When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

6. From the bare perusal of the aforesaid section 307 of IPC, it is clear that for constituting an offence of attempt to murder, the following ingredients must be satisfied :-

"(i) That the death of a human being was attempted;

(ii) That such death was attempted to be caused by, or in consequence of the act of the accused;

(iii) That such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as;

(a) the accused knew to be likely to cause death; or

(b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury"

7. In ***Hari Singh v. Sukhbir Singh and Others, (1988) 4 SCC 551***, the Supreme Court has discussed as to what the Court has to see in order to bring the offence under Section 307 IPC. The relevant portion of the judgment is as under:

"Under Section 307, IPC what the court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of "attempt to murder". Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine the intention."

8. In offence under Section 307 IPC all the ingredients of murder are present except the death of the victim. For the application of Section 307 IPC, it is not necessary that the injury capable of causing death should have been actually inflicted.

9. In the light of section 307 of IPC, I have to first examine whether any of the ingredient u/s 307 of IPC has been made out to enable the Court to take cognisance thereof against the petitioners or not. Bare perusal of the FIR lodged by complainant would indicate that alongwith other co-accused, petitioner Amar Singh with intention of causing death of complainant fired from his 12 bore gun which hit at the chest of the complainant.

10. Therefore, no infirmity, irregularity or illegality is found in the impugned order passed by the learned Additional Sessions Judge.

11. Accordingly, this revision petition is devoid of any merits and hence is hereby dismissed at this stage. It is made clear that nothing observed hereinabove shall prejudice the case of the petitioners/accused persons at the trial.

Criminal Revision dismissed.

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