

A MOHAN SINGH
v.
STATE OF RAJASTHAN

July 30, 1979

B [R. S. SARKARIA AND V. D. TULZAPURKAR, JJ.]

Penal Code, 1860 (Act 45), Section 201—Causing disappearance of evidence of offence to screen offender legal punishment—Absence of legal evidence or any material on the record of the factual ingredients of an offence under Section 201 I.P.C. entitled the discharge of the accused under Section 227 CrI. P.C. therefore the charge framed as per Section 228 CrI. P.C. 1973 is illegal.

C On the allegations that one Padam Singh was shot dead in the farm of the appellant by Doongar Singh and two others on 4-3-1978, that the appellant's car No. R.J.F. 2118 was made use of in carrying the dead body to be thrown into a well on the boundary of village Ramasani by Doongar Singh who latter brought the car back on the same day to the appellant's bungalow where it was washed the same day and thereafter the appellant got his car washed on 8-3-1978 at the Petrol Pump of one Umraokhan, the Sessions Judge framed a charge against the appellant of an offence under Section 201, Penal Code merely on the ground that there was material to show that the appellant got his car washed on 8-3-1978 at a petrol pump. The High Court refused to set aside the said order in revision under Section 482 CrI. P.C. 1973.

E Allowing the appeal by special leave, the Court,

HELD : 1. The impugned order of Sessions Judge being based on no evidential material whatever was manifestly illegal. [150A]

F (a) The mere washing of the car on 8th March could not be *prima facie* evidence of the factual ingredients of an offence under Section 201, Penal Code. [150A]

(b) The presence of blood stains on the car on the 8th March stood negatived by the Prosecution's own assertion (in the Police Challan) that Doongar Singh had got the blood on the car washed on the day of the murder, itself, and [194G-H]

G (c) there was nothing in the statements of the Petrol Pump dealer and his servant that there was any blood on the car which was washed. There was not an iota of material on the record to furnish basis even for a grave suspicion that by getting the car washed on the 8th March, 1978, the appellant caused any blood or other evidence concerning the murder of Padam Singh to disappear. [149F-G]

H CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 363 of 1979.

Appeal by Special Leave from the Judgment and Order dated 28-3-1979 of the Rajasthan High Court in S.B. CrI. Misc. Application No. 128/78. **A**

Ram Jethmalani and *N. H. Hingorani* for the Appellant.

Badridas Sharma for the Respondent. **B**

The Order of the Court was delivered by

SARKARIA, J. This appeal by special leave is directed against an order, dated March 28, 1979, whereby the High Court of Rajasthan dismissed the appellant's application under Section 482, Criminal Procedure Code and refused to set aside an Order dated August 14, 1978 of the Sessions Judge framing a charge under Section 201, Penal Code against the appellant. **C**

The prosecution case as put in Court is that on March 4, 1978, one Padam Singh was shot dead at the farm of the appellant by the accused, Doongar Singh, in conspiracy with the accused, Hanif and Shambhoo Singh. Padam Singh's deadbody was first put in a jeep for removal. After going some distance the jeep went out of order. Thereafter, Doongar Singh brought the car of the appellant. The deadbody was then transhipped into the car (RJF 2118) and was taken to a distance and thrown into a lonely well on the boundary of village, Ramasani. Doongar Singh then brought the car back to Mohan Singh's bungalow *where it was washed* [vide the Police report of A.S.P. City (West) Jodhpur]. It is not alleged that the appellant was in any manner concerned as an abettor or accomplice in the murder or participated or abetted the removal and disposal of the deadbody of Padam Singh. The only allegation on the basis of which a charge under Section 201, Indian Penal Code has been framed against the appellant is that on March 8, 1978, that is, five days after the murder of Padam Singh, he got his car washed at the Petrol Pump of one Umrao Khan. In this connection, the investigating Police Officer examined Sardar Khan son of Umrao Khan, Petrol Pump dealer and his servant, Mangilal. There is nothing in their statements that there was any blood on the car which was washed. There was not an iota of material on the record to furnish basis even for a grave suspicion that by getting the car washed *on the 8th March, 1978*, the appellant caused any blood or other evidence concerning the murder of Padam Singh, to disappear. The presence of blood-stains on the car on the 8th March stood negatived by the prosecution's own assertion (in the police challan) that Doongar Singh had got the blood on the car washed on the day of the murder, itself. The mere **D**
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A washing of the car on the 8th March could not, by any stretch of imagination, be prima facie evidence of the factual ingredients of an offence under Section 201, Penal Code. The impugned order of the Sessions Judge being based on no evidential material, whatever, was manifestly illegal. We, therefore, allow this appeal, set aside the impugned Order and quash the charge framed against the appellant.

S.R.

Appeal allowed.