



IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Misc. Application No.190 of 2020

Mohit Verma and others

.... Applicants

Versus

State of Uttarakhand and another Respondents

Present:-

Mr. Lalit Sharma, learned counsel along with Ms. Suniti Bhatt, learned counsel for the applicants.

Mr. S. S. Chauhan, learned DAG along with Mr. Vikas Uniyal, learned Brief Holder for the State.

Mr. R. S. Sammal, learned Senior Counsel assisted by Ms. Sarita Bisht, learned counsel holding brief of Mr. Harshit Sanwal, learned counsel for respondent no.2

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present criminal miscellaneous application under Section 482 of the Code of Criminal Procedure, the applicant has sought quashing of the order dated 05.12.2019 (Annexure 7), the charge and alternate charge dated 05.12.2019 passed by the Second Additional Sessions Judge, Haldwani (Annexure 8), and further quashing of the entire proceedings of Sessions Trial No. 44 of 2018, *State versus Mohit Verma and others*, pending before the Court of the



Second Additional Sessions Judge, Haldwani, District Nainital, under Sections 302 read with 34, 120B read with 34, and 307 read with 34 of the IPC.

2. To appreciate the submissions made on behalf of the learned counsel for the parties, it would be apt to refer to the background facts of the case, which are as follows:-

On 01.11.2014, the informant/respondent No. 2 lodged an FIR against three unknown persons, alleging therein that on 31.10.2014, three unknown persons shot his brother, Yograj Singh, when he was returning to his house after parking his car, due to which Yograj Singh sustained injuries. The said FIR was lodged as FIR No. 586 of 2014, under Section 307 of the IPC at Police Station Haldwani, District Nainital. It is the case of the applicant/accused persons that the injured Yograj Singh was taken to Krishna Hospital, Haldwani, and after an improvement in his health, he was discharged from the hospital. During the investigation, the police recorded the statements of the injured Yograj Singh and his wife, Sunita Singh. It is further stated in the criminal miscellaneous application under Section 482 of the CrPC that, unfortunately, the injured Yograj Singh died on



24th May 2015 due to multiple organ failure at Sir Ganga Ram Hospital, New Delhi. Thereafter, on 24.09.2015, the police filed a chargesheet against applicant Nos. 1 and 2 for the offence under Sections 302 and 120B of the IPC and against applicant No. 3 under Section 120B of the IPC.

It is further stated in the application that, after obtaining bail from this Court following the addition of Section 302 of the IPC, the applicants, on 09.07.2019, filed an application for discharge under Section 227 of the CrPC before the trial court, namely, the Second Additional Sessions Judge, Haldwani, District Nainital. By the impugned order dated 05.12.2019, the trial court rejected the aforesaid discharge application and proceeded to frame charges under Sections 302 read with 34 and 120B read with 34 of the IPC, and further framed an alternate charge under Section 307 read with 34 of the IPC against the applicants.

3. Assailing the impugned order dated 05.12.2019 and the framing of the charges under Section 302 read with 34 and Section 120B read with 34, as well as the alternate charge under Section 307 read with 34 of the IPC, the learned counsel for the applicants would



draw the attention of the Court to the relevant paragraphs of the application for discharge under Section 227 of the CrPC and submit that no post-mortem was conducted and no inquest was held. After 15 days of the incident, the deceased was discharged from the hospital. He had regained his health, and long thereafter, he died on 24.05.2015. The deceased did not die due to the injuries caused to him on 31st October 2014, and it is apparent that he died due to multiple organ failure, which is not attributable to the gunshot injuries as alleged by the prosecution. Therefore, the trial court erred in not allowing the discharge application and in proceeding to frame the aforesaid charges.

4. He would further submit that after his initial discharge, 15 days after the incident, he was never again admitted to any hospital, nor was he under any treatment. He was admitted to Sir Ganga Ram Hospital, New Delhi, on 28.03.2015, and he died on 24.05.2015. After his discharge, 15 days after the incident, he himself went to the police station to get his statement recorded under Section 161 of the CrPC. He would thus submit that the trial court erred in not appreciating these facts and in rejecting his application for discharge and framing



the charges under Section 302 read with 34 and Section 120B of the IPC and alternate charge under Section 307 read with 34 of the IPC.

5. Per contra, the learned Senior Advocate for respondent No. 2 would draw the attention of the Court to the medico-legal report of Krishna Hospital and Research Centre, where the injured Yograj Singh Bisht was taken on 31st October 2014 at 10:46 p.m. He would refer to the multiple gunshot injuries sustained by the injured, who later died. He would refer to the injuries recorded in the said medical examination report dated 31st October 2014, namely: (i) gunshot wound 1 cm × 2 cm (R) supraclavicular region with irregular burnt-out margins; (ii) gunshot wound (R) side of the neck 1 cm × 0.5 cm, linear wound; (iii) gunshot wound (R) pinna 1 cm × 0.5 cm, linear wound; and (iv) multiple small wounds on the lateral aspect of the right palm and wrist.

6. The learned Senior Advocate would also draw the attention of the Court to the statement of Dr. J. S. Khurana of Krishna Hospital and Research Centre, Haldwani, who stated that on 31st October 2014 at 10:46 p.m., M.S. Joshi and Umesh had brought one injured, Yograj Singh Bisht, to the hospital and had informed him



that some unknown persons had fired gunshots at Yograj and injured him. He treated the injured Yograj, and after operating on the collarbone, he extracted a bullet through surgery, which was sealed in a bottle. There were three gunshot injuries on the body of Yograj Singh Bisht. The first gunshot injury was on the right collarbone, on the outer part of the shoulder, extending inward; the second gunshot injury was on the right side of the neck towards the outer part; and the third gunshot injury was on the lower side of the right ear (pinna). In addition to these, there were injuries on the palm and wrist. In the second gunshot injury, burnt-out margins were also found.

7. The learned Senior Counsel for respondent No. 2 would further draw the attention of the Court to the death summary of the deceased, Yograj Singh, issued by the Department of Medicine (Unit-3) of Sir Ganga Ram Hospital. Referring to the said death summary, he would submit that Yograj Singh was admitted to Sir Ganga Ram Hospital with a history of bullet injury to right side of the neck and right shoulder three months ago, presented with complaints of progressively enlarging painful swelling of neck with low grade fever for five days. The patient had difficulty in swallowing, which was progressively increasing, and due to the said bullet



injury, he had developed multiple complications. Ultimately, he succumbed to his injuries on 24th May 2015 at 6:30 a.m. in the hospital. He would further submit that Yograj Singh died due to the bullet injury and the complications arising therefrom.

8. Learned State Counsel would submit that, during the investigation, the Investigating Officer collected all the corroborative evidence and, after completing the investigation, filed the chargesheet. At the stage of framing of charge, the Court has to see whether sufficient material is available for the purpose of framing the charge.

9. It would also be relevant to mention the statement of Yograj Singh Bisht recorded under Section 161 of the CrPC, in which he categorically stated that at around 9:45 p.m. on 31st October 2014, he had come to his residence in his car, and as soon as he got out of the car, two persons, Mohit Verma and Ankur Chauhan, fired at him, while a third person was assisting them. In the said incident, he sustained serious injuries, and his elder brother, Kundan Singh Bisht, lodged the FIR at Police Station Haldwani.



10. The trial court of the Second Additional Sessions Judge, Haldwani, District Nainital, heard the learned counsel for the parties on the discharge application dated 09.07.2019, preferred on behalf of the accused/applicants. After hearing the learned counsel for the parties and going through the record, the trial court noted the FIR and also observed that, from the medical examination report on record, gunshot injuries were found on the body of the injured person. In the matter, the police had recorded the statement of Yograj Singh prior to his death, and during the investigation, the injured died at Sir Ganga Ram Hospital, New Delhi, on 24th May 2015. Thereafter, the Investigating Officer submitted an application on 24.09.2015, altering the offence from Section 307 of the IPC to Section 302 of the IPC, and the remand of the accused persons was taken under Section 302 of the IPC. After the investigation, a chargesheet was filed against the accused persons under Sections 302 and 120B of the IPC.

11. The trial court further stated in the impugned order dated 05.12.2019 that it is a matter of evidence whether Yograj Singh, the injured, died due to the gunshot injuries or due to any other reason. At this stage, the Court cannot arrive at any conclusion



regarding the same. From the evidence available on record in the case diary and the statements of the witnesses, there is sufficient material on record for framing charges under Sections 302 read with 34 and 120B read with 34 of the IPC and, in the alternative, under Section 307 read with 34 of the IPC. Accordingly, it proceeded to frame charges under Sections 302 read with 34 and 120B read with 34 of the IPC, and an alternate charge under Section 307 read with 34 of the IPC.

12. After hearing the learned counsel for the parties and upon going through the record, it is evident that the accused persons fired at Yograj Singh, as a result of which he sustained three gunshot injuries and one other injury, and he subsequently died on 24th May 2015.

13. On one hand, the learned counsel for the applicant would submit that the death of Yograj Singh is not attributable to the gunshot injuries and that he had, in fact, been discharged from the hospital and later got his statement recorded under Section 161 of the CrPC. Therefore, there is no material on record to suggest that he died because of the gunshot injuries.



14. On the other hand, the learned counsel for the State and the learned Senior Counsel for respondent No. 2 would submit that whether Yograj Singh died due to the gunshot injuries or otherwise would be a matter of evidence. The trial court has rightly come to the conclusion that all these aspects would fall for consideration during the trial and are matters of evidence. Therefore, no error has been committed by the trial court in framing the charges under Sections 302 read with 34 and 120B read with 34 of the IPC, and the alternate charge under Section 307 read with 34 of the IPC.

15. Since all that has been submitted on behalf of the applicants would certainly fall for consideration during the trial and would be the subject matter of evidence, this Court finds that there is no error in the impugned order and that the charges have been rightly framed. Thus, there is no force in this criminal miscellaneous application under Section 482 of the CrPC, and the same is hereby dismissed. Consequently, the interim order is hereby vacated.

(Siddhartha Sah, J.)

17.07.2026

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