

CRM-M-11979-2010

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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:18.11.2015

Joginder Singh

...Petitioner

Versus

Akam Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Mani Ram Verma, Advocate,
for the petitioner.

None for the respondents.

SABINA, J.

Petitioner has filed this petition challenging the orders dated 02.03.2009 and 23.02.2010.

Learned counsel for the petitioner has submitted that the trial Court had erred in only summoning accused Nos.1 to 4 and 11, whereas, all the accused were liable to be summoned to face trial. The Court of revision had further erred in holding that no prima facie case for summoning the accused to face the trial under Section 307 IPC was made out.

Case of the complainant, in brief, was that on 27.08.2002 at about 11:00 a.m., complainant was sitting in the shop of Bir Singh. In the meantime, one car and two Tata Sumos came to the spot. When the complainant inquired as

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to what was the matter, accused Harminder Singh alias Kala, Akam Singh, Jagroop Singh, Bhajjan Singh and Gurmeet Singh alias Pardhan started giving fist blows and slaps to the complainant. Akam Singh pointed his gun towards the complainant. Paramjeet Singh son of the complainant reached the spot and raised hue and cry. Accused forcibly took the complainant in the Tata Sumo to the fields of accused Harminder Singh alias Kala and Akam Singh. All the accused stepped out of the vehicles and accused Harminder Singh alias Kala inflicted injuries on the person of the complainant with his belt. Accused Jaswant Singh gave a lathi blow on the chest of the complainant. Accused Akam Singh fired a shot from his gun and some of the pellets hit the complainant in his abdomen. Complainant fell down and some of the accused gave him fist blows and slaps. Complainant inquired from them as to what was the matter. Accused Harminder Singh @ Kala, Akam Singh, Lakhvinder Singh and Malkiat Singh told him that his (complainant) father had met them in Sagar Hotel, Delhi and they had paid some amount to an agent to send accused Harminder Singh alias Kala to a foreign country. However, the accused had been cheated. Accused Sanjay Kumar was asked to get certain papers signed from the complainant. However, complainant declined to sign the blank papers. Son of the complainant was made to sign 5/6

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blank papers. Complainant was asked to pay ₹7,00,000/- to the accused. In the evening, complainant and his son were brought to the police station and signatures of the complainant were taken on two papers and one of the said paper was blank. On 30.08.2002, complainant was taken by the police in custody and was involved in a false case. On 21.11.2002, complainant moved an application in the Court to the effect that he should be supplied with the report of x-ray examination. Complainant was informed that the x-ray report was still awaited from Hisar. Complainant went to the Hospital a number of times but he was not supplied the x-ray report. On 06.12.2002, complainant came to know that x-ray report was never sent to Hisar for opinion. Complainant had approached the police but no action was taken. Hence, the complaint in question was filed.

In support of his case, complainant led his preliminary evidence. On going through the evidence on record, learned trial Court rightly came to the conclusion that specific allegations had been levelled against accused Harminder Singh alias Kala, Akam Singh, Jagroop Singh, Bhajjan Singh and Gurmeet Singh alias Pardhan. The said accused were summoned to face the trial under Section 307, 386, 323, 324, 148, 149 and 506 of the Indian Penal Code, 1860 ('IPC' for short). Trial Court further ordered that at this

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stage, no case under Section 364 IPC was made out. Although, the petitioner had arrayed 16 persons as accused but specific allegations were levelled against 5 accused who were ordered to be summoned by the trial Court. Aggrieved against the said order, petitioner as well as accused Jagroop Singh, Bhajjan Singh and Gurmeet Singh alias Pardhan preferred revision petitions. The said revision petitions were disposed of by the Court of revision vide order dated 23.02.2010. The Court of revision rightly dismissed the revision petition filed by the petitioner as the accused qua whom specific attribution had been made were ordered to be summoned by the trial Court. Revision petition filed by Jagroop Singh and others was allowed to the extent that no offence under Section 307 IPC was made out. In this regard learned Court of revision has noticed that as per MLR Exhibit PW3/A, 4 injuries were found on the person of the petitioner. There was no opinion that the said injuries were result of firearm. Petitioner was got radiologically examined on 19.02.2003 i.e. after a period of about 5 months. PW-5 Dr. D.L. Bansal who had radiologically examined the petitioner had made a reference to the chest examination, whereas, the case of the petitioner was that he has firearm injury in his abdomen.

In these circumstances, the Court of revision rightly

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held that on account of long delay between the medico legal examination of injured and his radiology examination and the fact that there was no corresponding injury with the firearm in the belly of the petitioner, no case could be said to have been made out qua commission of offence punishable under Section 307 IPC.

The impugned orders do not suffer from the vice of illegality and call for no interference.

Dismissed.

November 18, 2015
kapil

(SABINA)
JUDGE