

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M No.30214 of 2015(O&M)

Date of Decision:-08.10.2015

Chander Parkash.

.....Petitioner.

Versus

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ashwani Bakshi, Advocate for the Petitioner.

JASWANT SINGH, J (ORAL)

The petitioner(complainant) filed these separate petitions to challenge the orders dated 24.03.2015 (P-7) and 4.8.2015, whereby the respective applications filed by the prosecution for amendment of charge against Ashok Kumar and Veera Bai (addition of offence under Section 302/34 IPC) and under Section 311 Cr.PC for recalling the witnesses, namely, Vikram Singh and Karnail Singh have been dismissed.

The trial in the case FIR No.23 dated 6.02.2014 pertains to an offence punishable under Section 302 IPC for which the accused Manjit Singh has been challaned whereas the parents of accused Manjit Singh i.e. Ashok Kumar and Veera Bai have been challened for the offence punishable under Section 202 IPC. The case was registered on the basis of complaint given by Chander Parkash who is brother of victim Veena Rani wife of Manjit Singh. According to prosecution, Veena Rani was murdered

by Manjit Singh whereas the parents of Manjit Singh were aware of the offence but did not inform the police.

After completion of investigation, the final report was submitted by the police, whereupon the learned trial Court took cognizance and framed charges in respect of the respective offences for which the accused were challaned. The petitioner now seeks recalling of these witnesses to prove the extra judicial confession allegedly suffered by the accused Ashok Kumar and Veera Bai.

The learned trial Court has examined the applications in detail and has declined the same by assigning valid reasons. While dealing with the application for amendment of charge the learned trial Court has minutely examined the prosecution case and the evidence of five witnesses examined before it. The witnesses namely, Chander Parkash (complainant) and Deepak Kumar were admittedly not present at the time of occurrence and, therefore, the statement of complainant in this regard is nothing but an improvement as observed by the learned trial Court. The evidence on record or the final report do not make out a prima facie case for the offence of Section 302 IPC against Ashok Kumar and Veera Bai, therefore, the learned trial Court has rightly declined the prayer as the statement under Section 161 Cr.PC of prosecution witnesses do not suggest the commission of an offence punishable under Section 302 IPC by Ashok Kumar and Veera Bai.

Similarly, the other application for recalling the witnesses has also been rightly declined. The witnesses namely, Vikram Singh and Karnail Singh have already testified before the Court and were cross examined also. There is no mention of any extra judicial confession by

these witnesses, as noticed by the learned trial Court in the order under challenge nor anything else in this regard has been placed before this Court. The final report of the police also does not mention any such evidence. At the time of framing of the charges, the prosecution or the complainant never pressed for framing of charge under Section 302 IPC as far as accused Ashok Kumar and Veera Bai are concerned. The prosecution or complainant never filed any petition to challenge the proceedings of framing of the charges by the learned trial Court.

The petitions are filed after examination of five witnesses and the court has specifically observed that the applications filed by the prosecution is an attempt to introduce the evidence of extra judicial confession. The same is not permissible and the power under Section 311 Cr.PC cannot be invoked to fill up any kind of lacuna.

In view of the above, this Court does not find any ground to interfere under Section 482 Cr.PC for quashing of the order dated 24.03.2015 (P-7) and as such the present petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

October 08, 2015
Vinay