

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl. Revision No. 3039 of 2014 (O&M)

Date of Decision: 29.10.2015

Kartar Singh & Anr.

.. Petitioners

Vs.

State of Punjab

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. R.S. Bains, Advocate
for the petitioners.**

Mr. Deep Singh, AAG Punjab.

ANITA CHAUDHRY, J.

The instant revision petition has been preferred against the order dated 16.08.2014 passed by the Additional Sessions Judge, Amritsar vide which the petitioners and others have been charged under Sections 307, 450, 452 read with Section 34 IPC and under Section 27 of the Arms Act.

Daljit Kaur got FIR No. 127 dated 13.10.2012 registered stating that on 12.10.2012 she and her daughter Navpreet were in their house, her husband Mukhbir Singh and son Tejpal Singh had gone to the shop. At about 10:00 a.m. she heard the roof falling. She and her daughter came

out of the house and noticed that the six rooms constructed by them in the adjoining plot, were demolished. Kartar Singh and Sukhwinder Singh armed with 12 bore rifles were standing on the roof of other rooms. They criminally intimidated them and accused them of raising construction over their property. They fired a shot in the air. When her daughter stopped them, then Dhanwant Singh chased them and opened fire. To save themselves, they entered their house. She informed her husband on mobile. He also returned. When all of them went to stop them, then Karnail Singh started pelting stones on them. They started running towards the house to save themselves. They were chased by Karnail Singh and Dhanwant Singh, who entered their house and opened fire on them. Her husband Mukhbir Singh fired in air in self defence. Then accused Dhanwant Singh and Karnail Singh ran away from there. The complainant and her husband went to the roof of their house and there also the accused opened fire on them. Her husband also fired in self defence. All the accused then left.

The complaint was investigated. Final report was laid. The petitioners and others have been charged by the trial Court.

I have heard learned counsel for the parties and have perused the paper-book carefully.

Learned counsel for the petitioners has urged that it is admittedly not a case of injury and the provisions under Section 307 IPC were wrongly invoked by the trial Court and at the most they could be charged under Section 336 IPC. He further submitted that the complainant side were the aggressors and Jaswinder Kaur from the side of the petitioners had sustained grievous injury. He asserted that the police did not record the cross-version and petitioner Kartar Singh had approached this Court earlier by way of Crl. Misc. No. M-36621 of 2012, wherein the State in its reply submitted that cross-version was registered vide DDR No. 12 dated 24.03.2013 under Sections 307, 148 and 149 IPC and 25/27 of Arms Act against the complainant side and Sections 450 and 452 were dropped against the petitioners and others in the FIR, but the investigating agency did not challan the complainant side and the trial Court had not considered that no offence under Sections 450 and 452 IPC was found to have been committed and it had charged the petitioners under the aforesaid heads. He has referred to Annexure P-2 i.e. FIR lodged by the petitioners against the complainant side in the year 2007 and had urged that the petitioners had been falsely implicated in this case.

Learned State counsel has supported the order passed by the trial Court. He has submitted that after an

enquiry the cross-version was found to be false.

A perusal of FIR shows that none from the complainant side had received injury in the occurrence. To attract offence under Section 307 IPC, injury is not a pre-requisite. It is the intention which matters. The parties are admittedly having strained relations. The complainant specifically disclosed in the FIR that the accused opened the fire with an intention to kill them and they saved themselves by entering their house. A perusal of FIR shows that not once, the accused had opened fire thrice. They chased the complainant side and opened fire and on the third occasion when the complainant side climbed on to the roof of their house, the accused again opened fire. It is another fact that no one was injured. The cross-version registered at the instance of petitioners was found to be false. It is a matter of evidence as to who was the aggressor. The Court at the stage of framing of charges does not evaluate evidence to determine its correctness or credibility. It merely sifts and weighs the evidence for a limited purpose namely whether there is sufficient material to frame the charge. It is also settled that the Court is not bound to agree with the investigation report and it was for the Court to decide whether the case would fall under Sections 450 or 452 IPC. It shall mainly be adjudicated only on the basis of evidence

led before it during trial.

For the reasons above, there is no illegality or perversity in the impugned order passed by the Court below. The petition is dismissed. Nothing observed hereinabove shall however have any bearing on the merits of the case.

October 29, 2015
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(ANITA CHAUDHRY)
JUDGE