

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

CRR-414 of 2015.
Decided on:-14.09.2015.

Nawab.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. K.S. Sidhu, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana
for respondent No.1-State.

Mr. Sunil Panwar, Advocate
for respondents No.2 to 5.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against order dated 21.10.2014 passed by learned Additional Sessions Judge, Mewat challenging the framing of charge under Section 304 IPC instead of Section 302 IPC.

Briefly stated, the FIR No.44 dated 23.2.2014 was registered under Sections 148/149/323/324/356/506 IPC at Police Station Ferozepur Jhirka, District Mewat. The petitioner-complainant, namely, Nawab has stated that the accused along with other 14 co-accused caused injuries to

deceased Habbu on 15.2.2014 and had snatched away Rs.73,000/- which was in possession of Habbu at the time of incident. The motive behind causing these injuries are that earlier two FIRs were lodged against the accused party on the behest of the complainant family. Initially, FIR was registered under Sections 148/149/323/324/356/506 IPC. However, injured Habbu had died on 25.2.2014 due to the injuries caused by the accused person and thereafter, offence under Section 302 IPC was added.

The police has submitted report under Section 173 Cr.PC against the private respondent/accused referred in this petition. Though the accused were named in the FIR but the police could not arrest them and did not file report against them.

Learned counsel for the petitioner contends that the framing of charge under Section 304 instead of Section 302 IPC is liable to be modified not only being non-speaking, rather, the trial Court has not appreciated the material facts and the law. He has submitted that at the stage of framing charge, the charge should be for graver offence whereas if at later stage, the Court finds the lesser charge, sentence can be passed for the lesser offence. In support of his contention, he has relied upon ***State of Bihar Versus Ramesh Singh 1977 AIR (SC) 2018, Courts on its own motion Versus Surinder Pal etc. 1984(1) RCR (Criminal) 350 (P&H)*** and ***State of Delhi Versus Gyan Devi 2000(4) RCR (Criminal) 517 (Supreme Court)***.

I have heard learned counsel for the petitioner.

The order dated 21.10.2014 shows that the learned trial Court has perused the entire record and has found that the injury which was caused to the deceased was not on the vital part of the deceased and was not caused with intention of causing death. At the time of framing of charge, the Court is not required to examine the record meticulously but has to assess the case from the prima-facie point of view. In this regard, reliance can be placed upon *Sajjan Kumar Versus CBI 2010(7) RCR (Criminal) 1515 (Delhi)*, *Chander Kalan Versus Rameshwar and others 2010(4) RCR (Criminal) 687 (P&H)* and *State of Orissa and another Versus Saroj Kumar Sahoo 2006(1) RCR (Criminal) 324 (Supreme Court)*.

Taking into consideration the injuries so inflicted on deceased Habbu which were not on the vital parts of the deceased, I find no reason to interfere with the order dated 21.10.2014 passed by learned trial Court wherein charge has been framed against the accused.

Accordingly, the present petition, being devoid of any merit, is dismissed.

September 14, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE