

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

Crl. Rev. No.701 of 2015

Date of Decision: 27.02.2015

Hemant Sharma and others

....Petitioners

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Present:- Mr. S.S. Nara, Advocate
for the petitioners.

DAYA CHAUDHARY, J.

The present revision petition has been filed by the petitioners against the order framing charge dated 05.01.2015 and charge sheet dated 05.01.2015 passed by the Additional Sessions Judge, Faridabad, whereby, the charge under Sections 306, 506 read with Section 34 IPC have been framed against them.

The order framing charge as well as charge sheet are subject matter of challenge in the present revision petition.

The impugned orders have been challenged by learned counsel for the petitioners on the ground that in spite of granting liberty by this Court vide order dated 04.11.2014 to raise all pleas before the trial Court, while dismissing the petition for quashing of FIR, the submissions of the petitioners-accused were not considered. Learned counsel also submits that the impugned charge has been framed without any application of judicious mind as no suggestion of the Court has been recorded while

passing the impugned order. No incriminating evidence was collected during the course of investigation, still, the charge has been framed.

Learned counsel for the petitioners has relied upon the judgment of Hon'ble the Apex Court in case **Tutul Kumari Sen vs State of Jharkhand and another 2009(13) SCC 495** in support of his contentions.

Heard the arguments of learned counsel for the petitioners and have also perused the impugned orders as well as other documents on the file including the FIR lodged against the petitioners.

Admittedly, the petitioners had earlier filed **Criminal Misc. No.M-37535 of 2014** for quashing of FIR and other proceedings arising therefrom including challan, which was dismissed as withdrawn vide Order dated 04.11.2014 with liberty to raise all the pleas contained in the petition at the appropriate stage before the trial Court. Thereafter, co-accused of the petitioners, namely, Jai Parkash Sharma, who was also charge sheeted on the same set of allegations in the same FIR filed **Criminal Revision No.3115 of 2014** to challenge the charge sheet dated 26.08.2014 before this Court and the same was dismissed on 30.09.2014 by passing a detailed order. A specific finding has been recorded in the order passed in the case of co-accused that at the time of framing of charge, there is no requirement that the reasons are to be recorded. Only a *prima facie* case is to be seen and the trial Court is to form an opinion after considering the police report and other documents on record after hearing both the parties. It is to be seen as to whether the accused has committed the offence, as contemplated under Sections 225 to 228 Cr.P.C. In case, on the basis of material collected by the Investigating Agency, the accused appears to be involved in the case then charge is to be framed. The co-ordinate Bench, in case of co-accused, has also held that the trial Court has examined the matter and has rightly framed the charge. Such charge sheet cannot legally

be set-aside while exercising the limited revisional jurisdiction of this Court, unless the same is totally illegal and without jurisdiction but no such patent illegality or legal infirmity has been pointed out by the counsel appearing for the petitioner accused.

Similar view has been observed by Hon'ble the Apex Court in case **U.P. Pollution Control Board vs Mohan Meakins Limited and others 2000(3) SCC 745**, which has been relied upon in the order passed in case of co-accused. The observations made by Hon'ble the Apex Court are as under :-

*“6. In a recent decision of the Supreme Court it has been pointed out that the legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a magistrate for passing detailed order while issuing summons vide **Kanti Bhadra Shah and another Versus State of West Bengal, 2000(1) RCR(Crl.) 407 : 2000(1) SCC 722**. The following passage will be apposite in this context:*

*“If there is no legal requirement that the trial Court should write on order showing the **reasons for framing a charge**, why should the already burdened trial Courts be further burdened with such an extra work? The time has reached to adopt all possible measures to expedite the Court procedures and to chalk out measures to overt all (sic) causing avoidable delays. If a Magistrate is to write detailed orders at different stages, the snail-paced progress of proceedings in trial Courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them. But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages of the trial.”*

(Emphasis supplied)

The judgment as relied upon by learned counsel for the petitioners is not relevant, keeping in view the facts and stage of the case.

Accordingly, in view of the facts and law position as mentioned above, there is no merit in the contentions raised by learned counsel for the petitioners and the petition, being devoid of any merit, is hereby dismissed.

27.02.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE