

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-40947 of 2016

.....

Date of decision:16.11.2016

Harbans Singh

...Petitioner

v.

Chamkaur Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Jasdev Singh Mehndiratta, Advocate for the petitioner.

.....

Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing order dated 6.10.2016 (Annexure-P.6) passed by learned Additional Sessions Judge, Patiala, whereby revision petition preferred by the petitioner against the order dated 1.12.2015 (Annexure-P.5) passed by learned Judicial Magistrate Ist Class, Nabha, has been dismissed. It has been further prayed to issue directions to learned Additional Sessions Judge, Patiala, to stay trial in FIR No.10 dated 29.1.2015 (Annexure-P.2) registered for the offences under Sections 302, 203, 342 and 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Bakshi Wala, District Patiala.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that as per Annexure-P.4 regarding the

same occurrence, challan has already been presented by the Police for the offences under Sections 302, 203, 342 and 34 IPC and Section 25 of the Arms Act against Chamkaur Singh and Lakhbir Singh. Regarding the same occurrence relating to the murder of Nahar Singh, a complaint has been filed by Harbans Singh against Chamkaur Singh, Surjit Kaur, Inder Preet Kaur, Lakhbir Singh alias Lakhi, and one non-Sikh man.

The learned Judicial Magistrate Ist Class, Nabha, after appreciating the evidence dismissed the complaint. Revision petition filed against this order has also been dismissed by learned Additional Sessions Judge, Patiala vide order dated 6.10.2016.

A perusal of the record shows that the occurrence took place in the intervening night of 28/29.1.2015. The FIR was got registered by Chamkaur Singh son of the deceased and during investigation it was found that the FIR has been wrongly recorded by Chamkaur Singh and they are accused and Chamkaur Singh and Lakhbir Singh were challaned for the murder of Nahar Singh. The present petitioner has neither got registered any FIR with the Police nor the matter was reported to the Police. The complainant is stating himself as eye witness to the occurrence. There is no explanation by the complainant as to why he kept silent for such a long time. His statement under Section 161 Cr.P.C. was not recorded. He has filed the complaint after making a plea that he had seen the occurrence from the neighbour's house and he had taken photographs on mobile which version cannot be believed. Otherwise also, the learned trial Court had discussed these photographs and these nowhere show that other accused

[3]

Surjit Kaur and Inder Preet Kaur were also involved in the commission of the offence. Even if it is taken otherwise, if the other co-accused were also found to be involved in the commission of the offence on the basis of evidence, then the Court can summon them under Section 319 Cr.P.C. After the investigation and presentation of challan and in the facts and circumstances of the present case, I find that the present petitioner/complainant kept silent upto 23.3.2015 till he filed the complaint shows no merit in the revision petition.

I have gone through the orders passed by the learned Judicial Magistrate Ist Class and learned Additional Sessions Judge. Both these orders passed by the Courts below are correct as per evidence and law. No illegality has been committed by the Courts below while dismissing the complaint as well as dismissing the revision petition. Nothing has been pointed out that as to what illegality has been committed by the Courts below nor these orders can be held as perverse.

Hence, finding no merit in the present petition, the same is dismissed.

November 16, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No