

CRR No.1593 of 2014

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

Sr. No. 257

CRR No.1593 of 2014

Date of decision: August 31, 2016

Simarjit Kaur

.... Petitioner

Versus

State of Punjab & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Lakhwinder Singh Sidhu, Advocate,
for the petitioner.

Mr. Rajpreet Singh Sidhu, Assistant Advocate General, Punjab.

Mr. D.S. Pheruman, Advocate,
for respondent Nos.2 to 11.

JASPAL SINGH, J.

Challenge in the revision petition is to the order dated April 18, 2014 passed by the Additional Sessions Judge, Tarn Taran, whereby an application under Section 321 Cr.P.C. moved by the State for withdrawal of prosecution for offences under Sections 304 and 201 of IPC against all the accused was allowed and accused were acquitted for the aforesaid offences.

2. An FIR No.37 dated March 06, 2013 under Sections 304, 341, 353, 201, 186, 332, 506, 120-B, 147 of IPC Police Station Sadar Tarn Taran,

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District Tarn Taran was registered on the basis of statement of ASI Hira Singh. As per the FIR version, the farmer union had given a call for stopping the trains on March 06, 2013. ASI Hira Singh along with ASI Kulbir Singh, Incharge Police Post Manochahal along with HC Savinder Singh, HC Jagjit Singh, Constable Roop Singh, Constable Kuldeep Singh, Constable Raj Kumar, Constable Balkar Singh and other police officials for conducting the raid on the farmer leaders, reached village Jeobala at the house of Palwinder Singh @ Kala. After sometime accused Nos.2 to 11 along with some unidentified persons surrounding the vehicles of police party and made the atmosphere dreadful. ASI Kulbir Singh told that he is feeling acute pain in his chest and urged them to allow him to go, but he was not allowed. After sometime, press reporters came there and accused persons disclosed to the newspaper correspondents that they have cornered/surrounded the police party and will not allow them to go. Meanwhile, ASI Kulbir Singh escaped secretly, so that more police force can be called. After a long time, when Kulbir Singh did not turn up, his whereabouts were traced at some distance from the place of occurrence his dead body was found. Complainant alleged that accused Nos.2 to 1 and other unidentified persons were responsible for the death of ASI Kulbir Singh. The complainant alleged that the accused persons with common intention had interfered in their duty. Thereafter, Inspector Onkar Singh, SHO Police Station Sadar, District Tarn Taran conducted the investigation. Accused persons were arrested and after completing other formalities, challan was presented under Section 173(2) Cr.P.C. against accused Nos.2 to 11. On August 22, 2013 charge was framed under Sections 120-B, 147,

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304, 201, 341, 353, 186, 506 of IPC.

3. On December 23, 2013, an application under Section 321 Cr.P.C. was moved on behalf of the prosecution for withdrawal of two offences i.e. under Sections 304 and 201 IPC, which was contested by the petitioner-Simarjit Kaur widow of deceased ASI Kulbir Singh. The said application was allowed and accused were acquitted for offences under Sections 304 and 201 of IPC vide impugned order dated April 18, 2014 passed by the Additional Sessions Judge, Tarn Taran.

4. Aggrieved by the aforesaid order, instant petition has been filed.

5. Heard learned counsel for the parties.

6. Undisputably, the instant FIR was registered against the accused persons on the basis of statement of ASI Hira Singh and after presentation of challan, the accused were charged-sheeted. During pendency of the case, the Judicial Commission was appointed by the State Government to conduct inquiry and after receipt of its report, the State Government decided to withdraw the case against the accused for offences under Sections 304 & 201 of IPC in public interest and to maintain law and order as well as peace.

7. The Judicial Commission conducted a thorough inquiry and gave its report. The report with regard to death of ASI Kulbir Singh reads as under:-

“Now coming to the death of ASI Kulbir Singh, Dr. Kanwaldeep Singh, PW1, who along with other doctors examined the dead body of ASI Kulbir Singh has stated clearly that no external injury was found on the same”

In this view of the matter, aforesaid persons, arrayed as accused in the relevant criminal challan or others, who are

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stated to be present at the place of incident and allegedly manhandled this police officer, do not seem to be responsible for his death.”

8. On the basis of the aforesaid inquiry report, instructions were issued by the State Government to the Deputy Commissioner, Tarn Taran for withdrawal of prosecution for offences under Sections 304 and 201 of IPC and it was only thereafter, that application for withdrawal of prosecution for offences under Sections 304 and 201 of IPC was moved. In this view of the matter, it is held that a proper inquiry was conducted with regard to the incident by the Judicial Commission duly appointed by the State Government. The report of Judicial Commission reveals that Dr. Kanwaldeep Singh PW-1 along with other doctors examined the dead body of ASI Kubir Singh and clearly stated that no external injury was found on the same. In this view of the matter, accused persons were not responsible for his death. The learned Additional Sessions Judge, Tarn Taran has rightly held that there was nothing on record to decline such request of prosecution and consent was granted for withdrawal of prosecution against all the accused for offences under Sections 304 and 201 of IPC only.

In the light of what has been discussed above, there is no merit in the instant petition, the same is accordingly dismissed.

August 31, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No