

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revn. No.1266 of 2016(O&M)

Date of Decision: May 11, 2016

Sahab Ram and anotherPetitioners

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.SS Sahu, Advocate for the petitioners.

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TEJINDER SINGH DHINDSA, J.

The instant revision petition is directed against the order dated 16.2.2016 passed by the learned Additional Sessions Judge, Fatehabad, whereby an application moved by the prosecution seeking discharge of the present petitioners in case FIR No.386 dated 30.6.2015, under Sections 147, 148, 323, 325, 341, 379 and 307 read with Section 149 of the Indian Penal Code, registered at Police Station Ratia, District Fatehabad has been declined.

2. Briefly, it may be noticed that the FIR came to be registered at the instance of Mukesh Kumar son of Hanuman in relation to an occurrence dated 28.6.2015. Complainant asserted that when he was returning from his fields on his tractor and reached on the main path, Chhotu Ram armed with a kassi, Sahab

Ram (present petitioner No.1) armed with an axe, Rattan Ram armed with a rod, Sher Singh (present petitioner No.2) armed with a gandasi, Bhal Singh armed with a lathi attacked him. As per complainant's version, petitioner No.1, i.e. Sahab Ram, tried to give an axe blow on his head and when he tried to save himself, the axe hit on his left finger and the reverse side of axe hit his head. Direct/overt act attributed to Sher Singh (petitioner No.2) is that he tried to give a gandasi blow on the head of the complainant and when he raised his arm to save himself, the same struck to his right wrist.

3. Challan in the present case was presented on 25.9.2015 in which the present petitioners along with others were nominated as accused.

4. Learned counsel appearing for the petitioners would assail the impugned order dated 16.2.2016 by stating that prior to the presentation of the challan, wives of the petitioners, namely, Sunita and Suman had moved an application to the Superintendent of Police, Fatehabad on 31.8.2015 staking innocence of their husbands and in pursuance to which an enquiry at the hands of a police official of the rank of Deputy Superintendent of Police was still under way. It is submitted that the report of the Deputy Superintendent of Police was furnished after the presentation of the challan holding the petitioners herein to be innocent, on the basis of which an application seeking their discharge had been filed. It is argued that even after submitting the final charge sheet, the investigating agency had the right of further investigation under Section 173 (8) of the Code of Criminal

Procedure and without permission of the Court and in the present case, the report submitted by the Deputy Superintendent of Police returning findings of the petitioners being innocent has been completely overlooked by the Court. It is further argued that petitioner No.1 is an English Lecturer and petitioner No.2 is a Conductor with the Roadways Department and they have been falsely implicated with the oblique objective to ensure that they lose their jobs/employment.

5. Having heard learned counsel for the petitioners at length and having perused the pleadings on record, this Court is of the considered view that there is no basis which would warrant interference with the impugned order.

6. There would be no quarrel with the settled proposition and principle that it is always open for the police to further investigate the matter even after presentation of the charge sheet under Section 173 of the Code of Criminal Procedure and based upon such *"further investigation"* even file a supplementary challan. The embargo is only against *"re-investigation"* and not against *"further investigation"*. Be that as it may, the entire case of the petitioners seeking the discharge is founded upon an enquiry report submitted by a Deputy Superintendent of Police after presentation of the challan. On a specific query having been put to the learned counsel, it has been conceded that in such enquiry conducted by the Deputy Superintendent of Police which led to the findings being returned in favour of the petitioners, complainant Mukesh Kumar as also injured Anil Kumar were not even associated. Learned counsel has not even been able to

advert to any fresh evidence that may have been collected by the Deputy Superintendent of Police while submitting a report exonerating the petitioners.

7. In the light of such situation and circumstances, this Court does not find any infirmity in the order dated 16.2.2016 at Annexure P1 dismissing an application seeking discharge of the present petitioners.

8. Petition is dismissed.

9. However, it is made clear that dismissal of the instant revision petition would not be construed as an expression of opinion of this court on the merits of the case.

May 11, 2016
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether to be referred to reporter? (Yes/No)*