

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3940 of 2014

Date of Decision: February 23, 2016

Joginder Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.M. Sharma, Advocate
for the petitioners.

Mr. J.S. Brar, AAG, Punjab.

Mr. Ravi Kumar Mattoo, Advocate
for the complainant.

FATEH DEEP SINGH, J.

The short point involved in this criminal revision against an order dated 01.09.2014 of learned Additional Sessions Judge, Patiala, whereby, charges under Section 307 IPC have been framed, whether the learned Court below has fallen into an error in framing the charges under Section 307 IPC and whether there being no sufficient evidence the accused ought to be tried for lesser offences.

Heard, learned counsel for both the sides. It is the allegations of the prosecution so spelled out by the complainant that on 9.10.2013 at about 6.30 p.m. in the area of village Kalwa on raising of *lalkara* by Joginder Singh that complainant side be taught a lesson for filing a case over the land dispute, Joginder Singh is alleged to have given a blow of *danda* and Gagandeep Singh is alleged to have given a rod blow on

the left side of eye both on the person of Inderjit Singh and as a consequence of which, one of the tooth of this injured broke down. Another *dang* blow is alleged to have been given by Satnam Singh on the left side of chin of this injured. Jaswant Singh is alleged to have given *kirpan* blow on the right thigh of Inderjit Singh. The contentions that the offence under Section 307 has not been medically supported has sought to be controverted on behalf of the State. It is by now well enunciated principle of law reliance of which can be drawn from the ratio laid down in **Ganesh Narayan Hegde vs. S. Bangarappa and others 1995(2) RCR (Criminal) 373** that against framing of charge being a intermediary order and, thus, a revision lies against such an order. Furthermore, the principle that has to be applied at the time of framing of charge is as to the existence of prima facie case. As per the CT scan report of injured Inderjit Singh there is fracture of frontal bone on left side extending to lateral wall and floor of left orbit accompanied by fracture of greater wing of sphenoid on the left side and has been surgically operated upon. Keeping in view that there are two injuries on the head and front of the forehead which are clearly opined to be fractures. Thus, the opinion of the Medical Officer, Rajindra Hospital, Patiala dated 6.2.2014 that opines injuries No.1 to 4 on the person of Inderjit Singh to be grievous in nature and the reasons spelled out for not declaring these injuries as dangerous to the life which has been given by Dr. Charak Sangwan, ,Department of Forensic Medicine and Toxicology is that “_ _ _ as no imminent surgical intervention needed_ _ _” is in itself suggestive that the same ought to have been taken from the treating doctor when it is not so. Thus, what has weighed in the mind of the Court below

over the seats of injuries and their nature, the Court appears to have arrived at a conclusion that the injuries appears to be dangerous to life and for which has framed charges. As is argued on behalf of the State even defence has not opposed or made submissions at the time of framing of charge are matters which certainly undermines the case of the petitioner. There apparently, as has sought to be canvassed by the petitioner's counsel nothing to attract Section 245 Cr.P.C. for qualifying for discharge of the accused. The learned Additional Sessions Judge has exercised his judicial discretion on the basis of evidence and record before it. Petitioners could not show to this Court that if allowed to proceed with the trial on such charges would amount to abuse of process of Court, necessitating intervention by the aid of Section 482 Cr.P.C.

Thus, from this all it clearly ensues that the very nature of the injuries whether these are dangerous to life or not is only comprehensively determinable after examination of the doctor i.e. on leading of evidence. The Court below by applying principle of prima facie case as laid down in 1990 Cr.L.J. 1869 (SC) Niranjan Singh Karam Singh Punjabi vs. Jitendera Bhimraj Bijja and others has drawn this conclusion and that in the totality of the same apparently there is no illegality or perversity in the order, in view of which the instant petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 23, 2016
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