

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

CRR-3385-2016

Date of decision: 21.12.2016

Tarandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Rai, Senior Advocate,
with Mr. Anurag Arora, Advocate,
for the petitioner.

Mr. Pankaj Bhardwaj, Advocate,
for the complainant.

Ritu Bahri, J.

Challenge in this petition is to the order dated 17.08.2016 passed by the Additional Sessions Judge, Ferozepur, whereby charges under Sections 384, 506, 115, 120-B IPC and Section 25 of Arms Act have been framed against the accused-petitioner in case FIR No.109 dated 16.04.2014, registered at Police Station, Sadar, Ferozepur.

Brief facts of the case are that on account of matrimonial dispute between Tarandeep Singh-petitioner and Amandeep Kaur, FIR No.35 dated 28.01.2014, under Sections 307, 342, 406, 498-A, 506, 120-B IPC was registered at Police Station, Sadar, Ferozepur. After registration of the FIR, Tarandeep Singh filed CWP-2368-2014 before this Court seeking direction to entrust the investigation to an independent investigating agency like C.B.I., as Varinder Pal Singh, father of complainant Amandeep Kaur, was

well connected with the high ranked police officers/officials. The said writ petition was disposed of by this Court vide order dated 17.04.2014 by referring the matter to the Mediation and Conciliation Centre for an out of Court settlement. Thereafter, petitioner filed LPA No. 630 of 2014, which was disposed of by a Division Bench of this Court vide order dated 22.04.2014 and a direction was given to the Director General of Police, Punjab, to look into the matter and ensure an independent investigation in the matter.

After coming to know about the present case i.e. FIR No.109 dated 16.04.2014, under Sections 384, 115, 506, 120-B IPC and Section 25 of Arms Act, the petitioner made an application for modification of the order dated 22.04.2014 passed by this Court. On this application, vide order dated 04.07.2014, a direction was given that whichever FIRs are registered inter se parties arising from the matrimonial dispute, will be dealt with only by the Special Investigating Team (SIT), which had been constituted on 03.05.2014. On 11.07.2014, another order was passed, whereby the Additional Director General of Police (Crime) was directed to supervise the investigation(s) and ensure free, fair and impartial investigation(s). On 17.07.2014, the aforesaid LPA was finally disposed of by observing that all the cases between the parties stood transferred to the Special Investigating Team (SIT), and the Senior Superintendent of Police, Ferozepur, had directed all the officers that in future, if, any complaint is filed, the same might be forwarded to the SIT for its consideration.

Challan in the present case i.e. FIR No.109 dated 16.04.2014 was presented on 14.06.2014 (Annexure P-2) by the Station House Officer, Police Station, Sadar Ferozepur. Thereafter, vide order dated 17.08.2016,

charges have been framed against the present petitioner.

As per challan (Annexure P-2), on 13.04.2014, at about 02:52 P.M., four phone calls were received from mobile phone No.086079-44627. Archana, wife of complainant, picked up the first phone call and the person speaking from the other side told his name as Angrej Singh from Mohali. Thereafter, four calls were received on the mobile phone of Amandeep, daughter of complainant, having No.98788-00002. However, she did not pick up the phone. When complainant-V.P. Singh came home in the evening, he called from his wife's phone at about 09:42 P.M. at the above mentioned number to enquire about the matter. The person from the other side told his name as Angrej Singh, resident of Mohali and he asked the complainant to come to Mohali in order to meet him. However, he told him that Tarandeep (petitioner) and Robin (driver of Tarandeep) had hired a contract killer to kill him. They had given the contract of killing for an amount of Rs.18,00,000/-, out of which, Rs.2,00,000/- had been paid in advance. Angrej Singh insisted the complainant to come to Chandigarh and thereafter, disconnected the phone. During conversation, he asked the complainant to withdraw FIR No.35 dated 28.01.2014, under Sections 307, 342, 406, 498-A, 506, 120-B IPC, registered at Police Station, Sadar, Ferozepur, which has been registered on the statement made by Amandeep Kaur, daughter of complainant. The complainant further asserted that on 13.04.2014, Tarandeep Singh son of Sukhwinder Singh Bawa was roaming about in Ferozepur along with one unidentified person in white coloured Renault Duster, which was bearing the registration number of Chandigarh. He had shown the house of complainant to the said unidentified person.

After registration of the FIR, an attempt was being made by Tarandeep

Singh and his family members to blackmail the complainant and his family members by putting pressure on them with the threat of death by contract killer. The enquiry was marked to the Superintendent of Police (HQ), Ferozepur. After investigation, offence under Section 384 IPC was found to have been made out as telephone calls had been made from mobile phone No.86079-44627 of Angrej Singh on the phone of Archana, wife of complainant. Accordingly, Angrej Singh was arrested on 19.04.2014 by ASI Naveen Kumar. One mobile phone No.86079-44627, mark Samsung, was taken from his possession. During interrogation, he told that Golu resident of Ambala, had told him to inform V.P. Singh through phone that Robin Singh, Tarandeep Singh, Gagan etc. had given contract to somebody for Rs.18,00,000/- to kill the complainant and they had paid a sum of Rs.2,00,000/- in advance. Angrej Singh admitted having received Rs.10,000/- in advance for making telephone calls. He had to receive another sum of Rs.30,000/- for the said work. On the asking of Golu etc., he had to call V.P.Singh at Mohali, so that it could be easy to kill him. Aforesaid Sachin Sharma alias Golu was arrested on 23.04.2014. Sachin Sharma alias Golu stated that Angrej Singh had himself told him that he had made phone calls to V.P.Singh and thereafter, informed him that Tarandeep Singh Bawa and his friend Gagan had talked with Sharma Bouncer to kill V.P.Singh. Mobile numbers of Sharma Bouncer and Gagan were given by him. He also disclosed that after consultation, they had to kill V.P. Singh after calling him at Mohali. Sachin Sharma alias Golu also disclosed that Rs.2,00,000/- had been given in advance by Tarandeep Singh to Robin Singh. Thereafter, he arranged two country made pistols for Rs.12,000/- from some unknown person of Uttar Pradesh (UP) 15 days earlier. Sachin

alias Golu, during interrogation, had confessed that he had kept two country made pistols of 315 bore wrapped in cloth in the wooden box lying in drawing room of his residential house and he could get those recovered. Thereafter, ASI Naveen Kumar after taking Sachin Sharma alias Golu along with him, arrested Sharma alias Rajiv Sharma son of Mahesh Sharma, from F.R. Club, Sector 9, Chandigarh. During interrogation, he admitted that Robin Singh was employed as driver of Tarandeep Singh and he had introduced them to Tarandeep Singh and his friend Sarabjit Singh (Gagan). Robin Singh had introduced Sachin Sharma, Angrej Singh and Sharma Bouncer to Tarandeep Singh. Rs.18,00,000/- were to be given by Tarandeep Singh for killing V.P.Singh. Thereafter, Sachin Sharma alias Golu got recovered two country made pistols of 315 bore along with 08 rounds from double bed of wooden box in his house. Pistols were found operative by ASI Naveen Kumar. All the three parcels were sealed by ASI Naveen Kumar with his seal bearing impression 'NK'. He deposited the same in the *Malkhana* of Police Station.

Thereafter, DDR No.18 dated 24.04.2014 was registered and offence under Section 25 of Arms Act was added. On 25.04.2014, ASI Naveen Kumar arrested Sarabjit Singh alias Gagan and recovered mobile phone No.98148-44910 from him. On 27.05.2014, ASI Ashwani Kumar arrested accused Tarandeep Singh and on his interrogation, 06 mobile phones and 12 SIMs of different companies had been recovered. He admitted that on 13.04.2014, at about 2:30 P.M., he remained at Court Complex near Police Station, Sadar, Ferozepur and talked with his maternal aunts. Thereafter, he along with Bablu had marked the house of V.P.Singh. After sometime, he realised that police was chasing them in a private car,

upon which, they had gone towards Guru Harsahai. During night time, he along with Bablu had gone to Chandigarh. The Duster car, which was being driven by Tarandeep Singh, was recovered on 05.06.2014, in which he had shown the house of complainant to Bablu. On 11.06.2014, ASI Naveen Kumar arrested Robin Singh, who during interrogation, had disclosed that he was serving as driver of Tarandeep Singh and earlier to it, he was serving as a bouncer in Chandigarh and Mohali in different clubs and was getting a salary of Rs.15,000/- per month from Tarandeep Singh. After marriage, the relationship between Tarandeep Singh and his wife were strained and when the matter became serious, a case had been registered against Tarandeep Singh and his family. Due to fear from police, Tarandeep Singh along with his parents, sisters and both the brothers-in-law was staying in the house of Sarabjit Singh alias Gagan at Mohali. Tarandeep Singh and Sarabjit Singh alias Gagan being fed up had made a plan to kill V.P. Singh. Thereafter, he took both of them to Rajiv Sharma F.R. Club, Sector 9, Chandigarh, where Rajiv Sharma had called Sachin alias Golu and Angrej. There a deal was struck with Rajiv Sharma for Rs.20,00,000/- and Rs.2,00,000/- were taken as advance to give a contract of killing. Thereafter, they came back to the house of Sarabjit Singh alias Gagan and all the facts were disclosed to the other family members of Tarandeep Singh.

After completion of investigation, challan was prepared against Angrej Singh, Sachin Sharma alias Golu, Rajiv Sharma, Sarabjit Singh alias Gagan, Tarandeep Singh and Robin Singh and presented in Court on 14.06.2014. Thereafter, charges against the accused have been framed vide order dated 17.08.2016.

Learned senior counsel for the petitioner has vehemently argued

that perusal of the contents of challan would make out an offence under Section 384 IPC i.e. a case of extortion and once the case of extortion was made out in the investigation, no offence of abetment under Section 115 IPC abetting commission of offence punishable with death is made out. Hence, charge framed under Section 115 IPC is liable to be quashed. He further argued that Angrej Singh had threatened V.P. Singh-complainant on telephone by stating that he should come to Chandigarh and settle the dispute with family members of Tarandeep Singh. Thereafter, the telephone was disconnected. At best, it would be a case, where an offence under Section 116 IPC would be made out. As per Section 116 IPC, whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both. The telephone call had been made by Angrej Singh and the threats extended would fall under the definition of extortion under Section 384 IPC, as Angrej Singh had threatened the complainant to withdraw his earlier case i.e. FIR No.35 dated 28.01.2014.

Mr. Bhardwaj, learned counsel for the complainant, has argued that it is not a simple case of extortion because after registration of the FIR, recovery of two country made pistols has been effected from Sachin Sharma @ Golu and he has confessed that he had been hired on contract for killing of Varinder Pal Singh on account of matrimonial dispute between Tarandeep Singh and his wife (daughter of Varinder Pal Singh). He further

argued that as per detailed investigation, accused-Tarandeep had been in touch with Rajiv Sharma, who is owner of F.R. Club, Sector 9, Chandigarh, where they met Angrej Singh and Sachin Sharma @ Golu, as all of them had earlier worked in different clubs as bouncers and they had struck a deal with Rajiv Sharma for a sum of Rs.20,00,000/-, out of which, Rs.2,00,000/- had been given in advance. Further, the disclosure statement made by Robin Singh, driver of Tarandeep Singh, shows that it was he, who introduced Tarandeep Singh to Rajiv Sharma, Angrej Singh and Sachin Sharma @ Golu. In the presence of Robin Singh, Rajiv Sharma had paid Rs. 30,000/- to Sachin Sharma @ Golu for purchase of weapons. Recovery of weapons corroborates this version of the prosecution. Rs.10,000/- were given to Angrej Singh for making telephone calls to the complainant. The investigation conducted by the police further shows that there was telephonic conversation between Tarandeep & Gagan with Sachin Sharma & Angrej Singh. This evidence was sufficient to frame charges under Sections 384 and 115 IPC, as at the time of framing of charge, only a prima facie evidence has to be examined by the Court.

After hearing learned counsel for the parties and going through the facts and circumstances of the case, this petition deserves to be dismissed. The scope for quashing a charge-sheet while exercising powers under Section 482 Cr.P.C., has been considered by Hon'ble the Supreme Court in State of M.P. vs. Mohanlal Soni, 2000 (3) RCR (Criminal) 452, wherein it has been observed as under:-

“7. The crystallised judicial view is that at the stage of framing charge, the Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.”

Hon'ble the Supreme Court in **Tej Bir and another Vs. State of Haryana and another**, 2012 (3) RCR (Criminal) 308, held that High Court should restrain itself for quashing the charges by confining its attention only to the recitals in the FIR. The FIR does not represent the entire evidence of the case. In para 9 of the judgment, it has been further observed as under:-

“9. In the case of **State of M.P. v. S.B. Johari and Ors., 2000 (1) RCR (Criminal) 523**, it has been held that High Court in criminal revision cannot appreciate and weigh the materials on record for coming to the conclusion that charge against the accused could not have been framed. This Court held that the settled legal position is that at the stage of framing of charge, the High Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused and the High Court is not required to appreciate the evidence and arrive at the conclusion whether the materials on record are sufficient for conviction of the accused or not. The test at this stage should be, whether after accepting the charge, as framed, any case is made out.”

Recently in **Helios & Matheson Information Technology Ltd. and others Vs. Rajeev Sawhney and another**, 2012 (1) RCR (Criminal) 354, Hon'ble the Supreme Court has held that on a revision against the order of framing of charge, the Court cannot look into the documents produced by an accused to prove his innocence. Only in exceptional circumstances, the documents which are of unimpeachable character, can legally be translated into evidence.

“9. Learned counsel for the petitioners made a valiant attempt to argue that the Revisional Court was justified in receiving documents from the accused persons at the hearing of the revision and decide the legality of the order taking cognizance on that basis. Before the High Court a similar contention was raised but has been turned down for reasons that are evident from a reading of the passage extracted by us above. We see no error or perversity in the view taken by the High Court that in a revision petition photocopies of documents produced by the accused for the first time, could not be entertained and made a basis for setting aside an order passed by the trial Court and dismissing a complaint which otherwise made out the commission

of an offence. The accused is doubtless entitled to set up his defence before the trial Court at the proper stage, confront the witnesses appearing before the Court with any document relevant to the controversy and have the documents brought on record as evidence to enable the trial Court to take a proper view regarding the effect thereof. But no such document, the genuineness whereof was not admitted by the parties to the proceedings, could be introduced by the accused in the manner it was sought to be done. We may in this regard gainfully refer to the decision of this Court in [Minakshi Bala v. Sudhir Kumar and Ors.](#) (1994) 4 SCC 142 where one of the questions that fell for consideration was whether in a revision petition challenging an order framing charges against the accused, the latter could rely upon documents other than those referred to in [Sections 239](#) and [240](#) of the Criminal Procedure Code and whether the High Court would be justified in quashing the charges under [Section 482](#) of the Criminal Procedure Code on the basis of such documents. Answering the question in the negative this Court held that while an order framing charges could be challenged in revision by the accused persons before the High Court or the Sessions Judge, the revisional Court could in any such case only examine the correctness of the order framing charges by reference to the documents referred to in [Sections 239](#) and [240](#) of the Criminal Procedure Code and that the Court could not quash the charges on the basis of documents which the accused may produce except in exceptional cases where the documents are of unimpeachable character and can be legally translated into evidence.”

In **Bharat Parikh Vs. C.B.I. & Anr.**, 2008 (10) SCC 109, Hon'ble the Supreme Court while considering the case of quashing of charge-sheet under Section 482 Cr.P.C., held that the material produced at the instance of the accused cannot be considered, as evidence has to be led by the prosecution after framing of charge to prove the charge. Only in exceptional circumstances, a criminal proceeding may be quashed to secure the ends of justice and that stage would come only after the evidence is led. In para 16 of the judgment, it has been further observed as under:-

16. With regard to the second proposition regarding the High Court's powers to look into materials produced on behalf of or at the instance of the accused for the purpose of invoking its powers under [Section 482](#) of the Code for quashing the charges framed, it has to be kept in mind that after the stage of

framing charge evidence has to be led on behalf of the prosecution to prove the charge if an accused pleads not guilty to the charge and/or charges and claims to be tried. It is only in the exceptional circumstances enumerated in [State of Haryana vs. Bhajan Lal](#) 1992 (1) SCC 335, that a criminal proceeding may be quashed to secure the ends of justice, but such a stage will come only after evidence is led, particularly when the prosecution had produced sufficient material for charges to be framed. As observed in Debendra Nath Padhi's case (supra) at the stage of framing charge roving and fishing inquiry is impermissible and a mini trial cannot be conducted at such stage. At the stage of framing of charge the submissions on behalf of the accused has to be confined to the material produced by the investigating agency. The accused will get an opportunity to prove the documents subsequently produced by the prosecution on the order of the Court, but the same cannot be relied upon to re-open the proceedings once charge has been framed or for invocation of the High Court's powers under [Section 482](#) of the Code of Criminal Procedure.”

In the facts of the present case, a detailed investigation has been carried out by the prosecution before filing of the challan (Annexure P-2). Thereafter, finding a *prima facie* case, the trial Court has rightly framed charges against the accused. The accused-petitioner can prove his innocence only after leading adequate evidence before the trial Court. At this stage, no ground is made out to interfere in the impugned order of framing of charges.

Resultantly, the present petition is dismissed.

21.12.2016
ajp

(RITU BAHRI)
JUDGE

speaking/non-speaking : Yes/No
Reportable : Yes/No