

CRR No. 4611 of 2015

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

CRR No. 4611 of 2015
Date of decision : August 09, 2016

Amrik Singh

..... Petitioner

v.

State of Punjab and another,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. JS Bedi, Sr. Advocate
with Mr. Lovekirat Singh, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. AG Punjab

Mr. Chanchal K Singla, Advocate
for respondent No.2.

Ajay Tewari, J (Oral)

This revision petition has been filed by the complainant for
modification of the charge.

At the very outset, learned senior counsel for the petitioner

has stated that in this petition he has sought modification of the charge in

so much as in place of Section 304 of the IPC, charge under Section 302 of the IPC should have been framed against the accused/respondent No.2, charge under Section 326 of the IPC should have been framed against Satbir Singh and charge under Section 307 of the IPC should have been framed against Surjit Singh.

As regards Satbir Singh, learned Addl. AG Punjab, on instructions from ASI Pritpal Singh, states that the police is in the process of filing supplementary challan against him. In these circumstances, learned counsel for the petitioner states that he would not press this petition qua Satbir Singh and the same may be dismissed as such. Ordered accordingly.

As regards Baljit Singh @ Lakha (respondent No.2) and Surjit Singh, learned counsel has argued that the unequivocal version of the complainant and Naib Singh-injured was that respondent No.2 had killed Gurdev Singh by hitting him with his tractor.

Learned counsel for respondent No.2 has argued that statements of the complainant and of Naib Singh do not unequivocally state that respondent No.2 had intentionally killed Gurdev Singh. As per him, respondent No.2 was attacked by 10-15 people and when he was trying to escape on his tractor in an injured condition, he accidentally hit Gurdev Singh and that is why charge under Section 304 of the IPC has

rightly been framed against him.

In my opinion, at this stage it cannot be said as to what was the state of mind of Baljit Singh-respondent No.2 at the time when his tractor hit Gurdev Singh and it would be a matter of evidence. If the petitioner can prove that Baljit Singh hit Gurdev Singh with his tractor intentionally, it is a case of murder, and if the intention of Baljit Singh cannot be proved, it might be a case of Section 304 of the IPC. The determinant in this case is that even if Baljit Singh is charged under Section 302 of the IPC at this stage, the trial Court can find him guilty under Section 304 of the IPC but if he is charged under Section 304 of the IPC, it would be much more difficult for the Court to convict him under Section 302 of the IPC.

In the circumstances, the plea against Baljit Singh (respondent No.2) is allowed. Consequently, this petition qua him is allowed and the charge is modified to that of Section 302 of the IPC in place of Section 304 of the IPC.

As regards Surjit Singh, learned counsel for the petitioner has argued that he had fired shots which is proven from the recovery of .32 bore cartridges from the site and Surjit Singh owns a pistol of .32 bore.

In my opinion, this argument would not suffice because in

his statement, Naib Singh-injured has himself stated that Surjit Singh had fired shots in the air. Once that is the stand of the complainant party, no criminal charge can be brought against Surjit Singh. Consequently, this petition is dismissed qua Surjit Singh.

August 09, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No