

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

CRR No.599 of 2016.
Decided on:-12.02.2016.

Joginder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Harsh Garg, Advocate for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against order dated 13.11.2015 passed by learned Additional Sessions Judge, Ludhiana whereby charge under Section 306 IPC has been framed against the petitioner.

Learned counsel for the petitioner has argued that there is no allegation of abetment against the petitioner. While relying upon judgment of Hon'ble Apex Court in ***Ramesh Kumar Versus State of Chhattisgarh 2001(4) RCR (Criminal) 537***, learned counsel for the petitioner has contended that there was no instigation on the part of the petitioner and, therefore, the petitioner is not guilty of abetment. Reliance has also been placed on two other judgments of Hon'ble Supreme Court in ***Mahendra Singh and another Versus State of M.P. 1995 SCC (Criminal) 1157*** and ***Gangula Mohan Reddy Versus State of Andhra Pradesh 2010(1) RCR***

(Criminal) 603. Learned counsel for the petitioner has further contended that the very requirement of *mens rea* and instigation on the part of the petitioner are badly missing and prayed for setting aside of the impugned order dated 13.11.2015 passed by learned trial Court.

I have heard learned counsel for the petitioner.

Perusal of the FIR in question shows that on 20.5.2014 accused-petitioner Joginder Singh being landlord of deceased Avtar Singh had gone to his house and while using foul language, asked him to vacate the house and stated that in case of failure to do so, he would throw his households outside. The police has submitted Challan against the petitioner and after considering the statement of complainant as well as report under Section 173 Cr.P.C., the trial Court has framed charge against him vide impugned order dated 13.11.2015.

In ***Chitresh Kumar Chopra Versus State (Govt. of NCT of Delhi) 2009(4) RCR (Criminal) 196*** while distinguishing ***Ramesh Kumar's case(supra)*** cited by learned counsel for the petitioner, Hon'ble Supreme Court dismissed the appeal filed by the appellant-accused holding that the Court will frame the charge against accused if on basis of material on record, it is presumed that accused has committed the offence. It has further been held by Hon'ble Apex Court that while considering the revision against framing of charge, there is limited scope of revisional powers of the High Court under Section 401 of the Code of Criminal Procedure, 1973.

The other two judgments cited by learned counsel for the petitioner have also no applicability in the facts and circumstances of the case. In ***Mahendra Singh and another's (supra)***, there were allegations against the husband and his mother under Sections 498-A and 306 IPC and both of them had already undergone their sentence. Similarly, in ***Gangula Mohan Reddy's case (supra)***, the deceased was servant of the accused and committed suicide as the accused had levelled allegations of theft against him. While acquitting the accused, it has been held by Hon'ble Apex Court that the deceased was hyper sensitive to ordinary discord and differences which happen in day-to-day life.

In view of the above discussion, I find no merit in the present revision petition and no interference is warranted in the impugned order dated 13.11.2015 passed by learned trial Court. As such, affirming the same, the present revision petition is dismissed.

It is, however, specifically made clear that nothing observed above shall be construed as an expression of any opinion on the merits of the case pending trial in any manner. The trial Court shall decide the case on the basis of evidence available on record without having been influenced by the observations made hereinabove.

February 12, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE