

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Misc. No. M-25832 of 2011 (O&M)

Date of decision : April 24, 2017

Dhian Singh Petitioner

VERSUS

State of Punjab & ors. Respondents

CORAM : HON'BLE MR. JUSTICE A.B. CHAUDHARI

PRESENT: Mr. J.S. Bedi, Sr. Advocate, with
Sarvshri Navjot Singh and Manoj Kumar, Advocates,
for the petitioner.
Mr. A.S. Kler, Deputy Advocate General, Punjab.
Mr. S.S. Sandhu, Advocate, Retainer counsel for CBI.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

Per A.B. Chaudhari, J.

This order shall dispose of CRM M-25832 of 2011 and CRM M-31358-M of 2016, as common questions of law and facts are involved.

Present petitions are directed against order dated 19.07.2011 (Annexure P-1) made by the learned Additional Sessions Judge, Patiala framing charge against the petitioners in both these petitions in case F.I.R. No.210 dated 10.7.2004 under Sections 302/34, Indian Penal Code, Police Station CBI, SCB, Chandigarh.

In support of the petitions, Mr. J.S. Bedi, learned Senior Advocate, contended that the CBI in its report, after investigation, found that no offences were committed by the petitioners in both these cases and, therefore, the trial Court ought to have taken into consideration the report of the CBI and discharged the petitioners. He, then, contended that there is absolutely no evidence on the basis of which the charge could have been framed against the petitioners and the trial Court ought not to have framed the charge. Learned senior counsel for the petitioners has narrated the complete facts before me but it is not necessary for me to reproduce each and everything. The reason is that I have gone through the impugned order framing charge made by the learned Additional Sessions Judge, Patiala, carefully. I have also considered the submissions made by the learned senior counsel for the petitioners. The trial Court has made a lengthy order and discussed each and every aspect of the matter required for framing charge. Not only that, upon application of mind, the trial Court discharged Surinder Kaur as it found that there was no evidence whatsoever against her.

Insofar as the other accused persons are concerned, I do not think that separate reasons need to be given by me and, therefore, I quote paragraphs 12 and 13 from the impugned order, which read as under:-

“12. Case in hand is very peculiar in nature, in as much as Dr. Harbhajan Singh along with his two children namely Gagandeep Kaur daughter and Rupinder Singh alias Raja son were brutally murdered during the intervening night of 9th /

10th July, 2007 and the post mortem reports indicate use of sharp edged weapons for causing injuries on their persons resulting into their deaths. Admittedly there is no eye witness of the occurrence nor for that matter despite investigation conducted by the police and the CBI no eye witness of the occurrence of this case came to light. The occurrence of this case having taken place at night time, therefore, only circumstantial evidence could be collected in the course of investigation. Gurbux Singh member of the SGPC and Hussan Lal besides Sohan Singh in the course of police investigation made statements in respect of the confession made by accused Bahadur Singh, Surjit Ram and Dhian Singh; it may be that during investigation by the CBI Gurbux Singh, Hussan Lal resiled from their statements but Sohan Singh stuck to his previous stand. However version of these witnesses are yet to be subjected to judicial scrutiny at the appropriate stage and at the stage of framing of the charge only prima facie case is to be seen. It is well settled that even a strong suspicion is sufficient to frame the charge against the accused. As per the evidence collected during investigation accused Bahadur Singh and so also Surjit Ram are both residents of village Bharta Kalan i.e. the parental village of accused Surinder Kaur. It was accused Bahadur Singh who was instrumental in getting divorce of accused Surinder Kaur from her first husband and then it was Bahadur Singh who after the death of the first wife of Dr. Harbhajan Singh got second marriage of Dr. Harbhajan Singh solemnized with accused Surinder Kaur. Bahadur Singh accused was having illicit relations with accused Surinder Kaur while accused Surjit Ram who being known to accused Surinder Kaur developed illicit relations with Amardeep Kaur daughter of Dr. Harbhajan Singh. Both accused Bahadur Singh and accused Surjit Ram were considering doctor Harbhajan Singh

to be an hindrance in their said activities. Accused Dhian Singh also resident of village Barnala Kalan along with his party men formed a separate group who wanted to raise forcible construction of Gurudawara Sahib in the village which was being opposed by Dr. Harbhajan Singh. There is one application on record dated 1.3.2004 purported to have been moved by Dr. Harbhajan Singh against accused Dhian Singh and his party men with respect to the dispute regarding construction of Gurudawara Sahib and also regarding extending of threats by accused Dhian Singh and his companions before the date of the occurrence of this case to kill Dr. Harbhajan Singh on account of their dispute pertaining to construction of Gurudwara Sahib. The scientific tests i.e. Lie Detection Test Reports and the Narco analysis conducted on the accused during investigation can certainly be relied upon along with other evidence collected in the course of investigation.

13. In view of the above discussion the oral and documentary evidence collected by the prosecution in the course of investigation taken together with the scientific tests reports, I have no hesitation to hold that prima-facie case for framing of charge against accused Bahadur Singh, Dhian Singh and Surjit Ram is made out for conspiring with unknown persons to commit the murder of Dr. Harbhajan Singh and for commission of murder of Dr. Harbhajan Singh, his daughter Gagandeep Kaur and his son Rupinder Singh alias Raja.”

I agree with the above reasons given by the trial Court for framing charge. In the result, I find no merit in this petition.

Hence, I make the following order:-

ORDER:

GURSHARAN SINGH KANG
2017.05.03 12:37
I attest to the accuracy and
authenticity of this document

Criminal Misc. Nos. M-25832 of 2011 and M-31358-M
of 2016 are dismissed.

April 24, 2017
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(A.B. CHAUDHARI)
JUDGE