

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

**CRM-M-31296 of 2012(O&M)
Date of Decision-31.05.2017**

Gurvinder Pal Singh
Versus

... Petitioner

State of Punjab

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Ms. Rimplejeet Kaur, AAG, Punjab.

Mr. Mandeep S. Bedi, Sr. Advocate with
Ms. Shubreet Kaur, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.27 dated 09.02.2010 registered under Sections 307/323 IPC and Sections 25/27 of the Arms Act (offence under Section 302 IPC was added later on), at Police Station Model Town, Ludhiana City.

[2]. The FIR was registered on the basis of statement of Kanwal Parkash Singh. Complainant alleged that he had two sons namely Prabhdeep Singh and Karandeep Singh. On 08.02.2010, the complainant was present in his house. At about 11.00 PM, the petitioner sent a message to his son Prabhdeep Singh and called him to his house. Prabhdeep Singh told the complainant that he would come back very soon. When

Prabhdeep Singh did not come back for quite a long time, then the complainant became worried and he went in search of him in his car. A Scorpio car met him near LIG flats, Phase-I, which came to be stopped on seeing the car of the complainant. The said vehicle was being driven by the petitioner. Before the complainant could talk anything, the petitioner by dragging out his son from the car threw him on the road and drove away his vehicle. Prabhdeep Singh was smeared with blood. The blood was oozing out from his head and there was a bullet injury at the back of his head. Prabhdeep Singh was hospitalized. The complainant alleged that his son Prabhdeep Singh was having friendship with daughter of the petitioner namely Damanpreet Kaur. The petitioner was objecting to it. Due to aforesaid reason, Prabhdeep Singh was called by the petitioner to his house and injuries were inflicted on his person.

[3]. Learned counsel for the petitioner submitted that after registration of the case, a supplementary statement was got recorded by the complainant after about three and half months. Some twist in the prosecution story was given. Challan was presented against the petitioner and charges have been framed. When the case was at the stage of prosecution evidence, an application was filed by the complainant that the supplementary statement so given by him was not made part of the challan. In the aforesaid undated supplementary statement, allegations were made against Damanpreet Kaur daughter of the petitioner,

Kuljit Kaur wife of the petitioner, Ravinder Singh @ Tinku son of Gurbachan Singh and Bhupinder Singh Solan son of Joginder Singh to the effect that the son of the complainant was called by Damanpreet Kaur in the presence of her mother Kuljit Kaur, maternal uncle Ravinder Singh @ Tinku and father's friend Bhupinder Singh Solan. Thereafter, petitioner by putting Prabhdeep Singh in injured condition in the car with the help of Bhupinder Singh Solan Son and Ravinder Singh @ Tinku was going to dispose of his dead body and when the complainant came across on the way, the body was allegedly brought out from the vehicle and was thrown on the road.

[4]. The said application was allowed by the Additional Sessions Judge, Ludhiana vide order dated 30.07.2011 and the statement was allowed to be brought on judicial file. The Court observed that the challan was presented against the petitioner under Section 302 IPC and Section 27 of the Arms Act on 20.05.2010 and charges have also been framed against him. The case was fixed for prosecution evidence and at that stage, the application in question came to be filed. The Court also observed that it was the duty of the Court to see that proper material is brought on record. The supplementary statement was found to be undated and without signature and without giving any finding regarding the admissibility of the document and evidentiary value of such supplementary statement, simply production of the same was ordered.

[5]. While appearing as PW 3, the complainant stated that two other persons were sitting in the Scorpio. Petitioner alighted from the car and threw the son of the complainant by opening the dicky. Bhupinder Singh Solan and Ravinder Singh @ Tinku were allegedly sitting in the car. In the context of summoning of Bhupinder Singh Solan and Ravinder Singh @ Tinku under Section 319 Cr.P.C, CRR No.1669 of 2012 was filed in this Court. This Court vide order dated 21.02.2017, decided the aforesaid criminal revision by remanding the case to the trial Court after observing the following in the concluding part:-

“[18]. At this juncture, it can be appreciated that the petitioners were not named in the FIR. During course of investigation their names did not crop up for consideration. They were not even made accused, nor they were shown to be innocent as per column No.2 of the challan. The complicity of the petitioners for the first time was raked up by way of undated supplementary statement of the complainant whose veracity and evidentiary value was not commented upon by the Court at the time of placing the same on record. The said signed statement whether would fall under the ambit of Section 162 Cr.P.C, is also required to be commented upon by the Court. In the light of statement of fact recorded in the FIR, whether undated supplementary statement would be sufficient to allege complicity of the petitioners or not, is also required to be revisited by the trial Court.

[19]. At this juncture, it is required to be established whether impugned order can be passed on the basis of statements on record? Whether provisions in terms of

Section 319 Cr.P.C., can be attracted on the strength of undated statement of the complainant which would fall for consideration of the Court under Section 162 Cr.P.C. Since the impugned order is totally silent with regard to the nature of the statement, therefore, at this stage, without commenting upon anything on the merits of this case, it would be just and expedient to direct the trial Court to look into the nature of application so allowed to be placed on record vide order dated 30.07.2011 and visualize the scope of such application viz.-a-viz., applicability of Section 162 Cr.P.C. if any, for the purposes of deciding the involvement of the petitioners under Section 319 Cr.P.C.

[20]. In view of above, impugned order dated 24.05.2012 is set aside. This case is remanded back to the trial Court to decide the same in the light of observations made above. Petition stands disposed of accordingly.”

[6]. During course of arguments, it has been argued by learned counsel for the petitioner that the petitioner is in custody since 10.03.2010. The application under Section 319 Cr.P.C was allowed by the trial Court vide order dated 24.05.2012 against which in CRR No.1669 of 2012, trial Court was directed to adjourn the matter beyond the date fixed by the High Court.

[7]. Now in compliance to the aforesaid order dated 21.02.2017, the trial Court has dismissed the application under Section 319 Cr.P.C and a fresh criminal revision has been preferred by the complainant.

[8]. Learned counsel for the complainant vehemently opposed the prayer on the ground that delay in disposal of the

case is attributable to the petitioner. Out of total 34 witnesses, 7 witnesses have already been examined. This petition was ordered to be listed along with CRR No.1669 of 2012, but could not be decided along with the said case.

[9]. At this stage, learned counsel for the parties attributed delay in disposal of the trial on each other. This Court cannot form any such opinion in these proceedings, however, it can be noted that the petitioner is in custody for the last more than 7 years. After the remand of the case in the proceedings arising out of Section 319 Cr.P.C on 21.02.2017, a fresh litigation has come to the High Court against the order by which prayer was declined by the trial Court.

[10]. Keeping in view the right of a speedy trial and taking into consideration the custody period of more than 7 years, I deem it appropriate to enlarge the petitioner on regular bail, subject to his furnishing heavy bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

[11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

31.05.2017

Prince

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No