

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

CRR-2134-2017

Date of decision :06.11.2017

Lakhwinder Singh and others

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. H.S. Batth, Advocate
for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

This revision petition is directed against order dated 19.05.2017 passed by Additional Sessions Judge, Amritsar vide which he had dismissed the application moved by the petitioner to discharge them from the case and had ordered to frame charge against them.

Briefly stated facts of the case as per prosecution version are that one Sandeep Singh son of Harbhajan Singh lodged in Central Jail, Amritsar had died at Civil Hospital Amritsar on 09.09.2009, inquest proceedings were conducted by Judicial Magistrate Ist Class, Amritsar. Inquiry report was sent to Punjab Human Rights Commissions New Delhi. Judicial Magistrate Ist Class, Amritsar in his report had stated that as per

report of Chemical Examiner '*Organo Phosphours compound pesticide*' was detected in the viscera of the deceased and as per medical opinion cause of death was Organo Phosphours compound pesticide poisoning leading to shock, which was sufficient to cause death in the ordinary course of nature. The learned Magistrate had observed that Organo Phosphours compound pesticide which had caused death of deceased Sandeep Singh was served / administered to him alongwith his food by someone else, in that way all or any one of the jail officials in whose custody deceased Sandeep Singh remained on the fateful day i.e. 09.09.2009 or responsible for causing his death by administering Organo Phosphours compound pesticide to him along with food. Lakhwinder Singh, Jagjit Singh, Kulwant Singh, Gurbinder Singh, Balbir Singh and Gurdev Singh were nominated as accused in this case.

After completion of investigation and other formalities challan against the accused was prepared and filed in the Court. Earlier challan had been filed under Section 304-A IPC, however, upon an application having been moved the case was committed to Court of the Sessions Judge by Judicial Magistrate Ist Class, Amritsar for trial of accused for offence under Sections 302/34 IPC. The Court of Additional Sessions Judge, Amritsar vide impugned order directed that charge be framed for offence under Sections 302/34/120-B IPC.

I have heard learned counsel for the parties, besides going through the record and I find that the order is well reasoned one and I do not find any illegality or infirmity therewith. Law is well-settled that charge can be framed on the basis of strong suspicion even. Guilt of an accused gets decided during the trial only. It cannot be said that there is no material

available on the record to frame formal charge against the accused or that no ground is there to discharge the accused. Section 227 Cr.P.C. deals with the eventualities when an accused is to be discharged. It provides that *if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.*

The case of the petitioner do not fall with four corners of this provision rather case comes within four corners of Section 228 Cr.P.C. dealing with framing of charge dilating that *if, after such consideration and hearing as aforesaid (Section 227 Cr.P.C.), the Judge is of opinion that there is ground for presuming that the accused has committed an offence which is not exclusively triable by the Court of Session, he may, frame a charge against the accused.*

The petitioner is unnecessarily aggrieved by framing of charge. There is no merit in the revision, it stands dismissed.

06.11.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**