

CRR-2702 of 2017 (O&M)

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

CRR-2702 of 2017 (O&M)
Date of Decision: 09.08.2017

Dinesh @ Baba Nayak

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vishal Sharma, Advocate, for
Mr. Himanshu Rao, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition, prayer has been made for setting aside the order dated 14.07.2017 vide which the petitioner has been charge-sheeted under Sections 302 and 326 read with Section 34 IPC.

Briefly stated, on 06.02.2017 at about 11:15 p.m. the petitioner along with his two companions came on a motorcycle and insisted to stop the music being played in a loud voice in a marriage function. Thereupon, an altercation took place between petitioner and his companions on one side and complainant and others on the other side, who had come to attend the marriage function. The petitioner, during the altercation, took out a knife and stabbed on the left side of the chest of one Lalit, aged 21 years and gave another stab injury with knife on the back of complainant Tek Chand. That apart, the petitioner also gave injury to the brother of the complainant, namely, Binesh Kumar.

Learned counsel for the petitioner contends that there was no

premeditation for causing any knife injury by the petitioner to the

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complainant or Lalit (since deceased). A sudden fight ensued in which the petitioner has, allegedly, caused knife injuries to the deceased and the complainant, thus, the case falls under Section 304 IPC and not under Section 302 IPC. Therefore, the trial Court has wrongly charge-sheeted him under Sections 302 and 326 read with Section 34 IPC.

After giving thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds that the present revision petition is completely devoid of any merit for the simple reason that the petitioner, if, after trial, is not found guilty under Section 302 IPC, in that eventuality, he can be punished for a lesser offence under Section 304 IPC or any other appropriate Section of the Indian Penal Code in view of the provisions of Sections 221 and 222 Cr.P.C. However, at this stage, there is a *prima facie* case against the petitioner that he had intentionally inflicted knife blow on the left side of the chest of Lalit knowing it very well that the same would result in his death.

In view of the above, present petition is dismissed.

However, anything observed hereinabove, shall not be construed to mean as an expression of opinion on the merits of the case.

August 09, 2017
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No