

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2827-2017 (O&M)

Date of decision: 22.08.2017

Hemant

..... Petitioner

Versus

State of Haryana

..... Respondent

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

**PRESENT: Mr. Amit Sharma, Advocate for the petitioner.**

**RAMENDRA JAIN, J. (ORAL)**

1. Through this revision petition, prayer has been made for setting aside the order dated 14.07.2017, passed by the learned Additional Sessions Judge, Rewari, charge-sheeting the petitioner under Sections 302 and 326 read with Section 34 IPC, in case FIR No. 26 dated 07.02.2017, registered under Sections 302 and 326 read with Section 34 IPC and Section 25 of the Arms Act at Police Station City, Rewari.

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor any role has been attributed to him for committing the murder of Lalit (since deceased). The Investigating Officer did not collect any evidence that the petitioner had gone to the place of occurrence with an intention to kill a particular person or in pursuance to a well planned and premeditated conspiracy. The incident of murder of Lalit, aforesaid had occurred by chance without any pre-planning or premeditation. The petitioner along with main accused, namely; Dinesh @ Baba Nayak, had gone to stop the loud music being played in the marriage.

The petitioner and the members of marriage party were not known to each

other and, thus, the petitioner has wrongly been charge-sheeted under Section 302 IPC with aid of Section 34 IPC.

3. After giving my thoughtful consideration to the submissions made by learned counsel for the petitioner, I find the instant revision completely devoid of any merit for the reasons to follow:-

- (i) The presence of the petitioner at the place of occurrence accompanying his co-accused, Dinesh @ Baba Nayak is not denied.
- (ii) The petitioner along with his co-accused had gone on a motorcycle to stop the loud music being run in a marriage party. His co-accused, namely, Dinesh @ Baba Nayak, stabbed knife blow on the left side of the chest of Lalit as well as to the complainant. There is no iota of evidence on the record that the petitioner ever stopped or refrain his co-accused from giving any stab wound with knife to Lalit (deceased) or the complainant. Therefore, the intention of the accused can only be inferred from the evidence to be led by the prosecution.
- (iii) Direct proof of common intention is seldom available and the same can only be inferred from the circumstances after adducing the evidence by the prosecution.
- (iv) It is yet to be determined by the trial Court as to whether the murder of Lalit or the alleged fight in between the petitioner and his co-accused on one side and members of the marriage party on the other side was pre-arranged or on the spur of moment and, thus, at this stage, the

petitioner cannot be discharged.

4. In view of the discussion made above, the instant revision petition is dismissed. Resultantly, the impugned order dated 14.07.2017, passed by the learned Additional Sessions Judge, Rewari, framing charge against the petitioner is upheld.

**August 22, 2017**  
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**( RAMENDRA JAIN )**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable**

**Yes/No**