

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

**Criminal Misc. No.M-36662 of 2018 (O&M)
Date of Decision: October 05, 2018**

Amarjit Singh

.....PETITIONER(s).

VERSUS

Mela Singh and others.

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Aakash Singla, Advocate for
Mr. Ankush Singla, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

This is petition under Section 482 Code of Criminal Procedure for setting aside order dated 08.06.2015 passed by Judicial Magistrate, Barnala, whereby on the complaint of petitioner, Mela Singh, who was named as accused No.1 in the complaint, was ordered to be summoned to face trial for the offence punishable under Section 302 of Indian Penal Code and 27 of Arms Act. No offence against the persons arrayed as accused No.2 to 5 (respondents No.2 to 5 in this petition) in the complaint was found to summon them to face trial.

Not satisfied, the petitioner filed revision before the Court of Additional Sessions Judge, Barnala, who did not find any prima facie case to summon accused No.2 to 5 and recorded his observations in para 11 of the order dated 04.07.2018, (also under challenge in this petition), which

reads as follows:-

“11. Therefore, this court is of the considered opinion that impugned order was rightly passed by the learned trial court and no perversity or infirmity is found in the same. The police has already presented the cancellation report regarding death of Jagsir Singh. There is no evidence that respondents no.2 to 5 conspired with respondent no.1 for the murder of Jagsir Singh. The arguments of learned counsel for revisionist that prima-facie case is made out against respondents no.2 to 5 is devoid of merit. The authorities relied upon by learned counsel for revisionist are not applicable to the facts of the present case and are quite distinguishable.”

Learned counsel for the petitioner argues that due to Panchayat elections, there was party faction in the village. One Balraj Singh was elected as Sarpanch while Jagsir Singh lost the election of Sarpanch. On 08.09.2008, at about 6.30 p.m., Jagsir Singh along with Mela Singh, Boota Singh, Gurbachan Singh and Nachhattar Singh came to the shop/house of Wazir Chand, who was not present there at that time. They were abusing him and Jagsir Singh started throwing bricks on the shutter of shop of Wazir Chand. He also tried to brake open the lock of his shop but was prevented by his co-accused Mela Singh, accused No.1, which led to a quarrel between them. Jagsir Singh abused Mela Singh, who fired shot with his gun at Jagsir Singh, which hit on his thigh. Thereafter, he was taken to Civil Hospital but he died on the way. He further argues that learned Court of Revision below, while dismissing revision, has looked into the evidence, which is not on record.

Perusal of the above allegations show that respondents No.2 to 5 have rightly been not summoned by the Courts below to face trial as they have no role in firing of shot by Mela Singh at Jagsir Singh. There is no allegation that they have even thrown bricks at the shutter of the shop of Wazir Chand, who was not examined to prove that any damage was caused to his shop due to the action of respondents No.2 to 5.

From the report of Forensic Science Laboratory, it has been proved that shot was fired from the gun of Mela Singh. Keeping in view the above facts, I find no merits in this petition. The petitioner, appears to be pursuing this complaint against respondents No.2 to 5 for his ulterior motives. Even if the allegations levelled in the complaint are taken as it is, no prima facie case to summon respondents No.2 to 5 is made out.

This petition has no merits. Dismissed.

October 05, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***