

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

CRM-M-40770-2017(O&M)

Date of decision:-15.5.2018

Ram Rattan @ Kala

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Sandeep S. Majithia, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Tejinder Pal Singh, Advocate
for respondent No.5 - complainant.

H.S. MADAAN, J.

By way of filing the present petition under Section 482 Cr.P.C., the petitioner – Ram Rattan @ Kala seeks quashing of order dated 9.10.2017 passed by learned Additional Sessions Judge, Panipat vide which application of the petitioner for further investigation has been dismissed despite specific order dated 20.7.2017 passed by this Court.

According to the petitioner deceased, Satbir @ Satta had died in a road side accident; that the petitioner has nothing to do with the

said incident but he has been wrongly involved in the case by the complainant; that the prosecution story is least convincing; that the petitioner had no motive to murder the deceased; that a similarly placed person, namely, Sandeep @ Deepu has since been discharged, whereas the petitioner has been wrongly roped in; that the father of the petitioner had given two representations to the police for further investigation but to no effect; that two independent witnesses have given their respective affidavits that petitioner was present at the fields at the time of alleged incident.

Notice of the petition was issued to the respondents, who put in appearance through counsel.

Learned State counsel has submitted that during the course of investigation, it has come out that since the deceased used to cause hindrance in illegal sale of liquor by Bijender, Kadam, Ram Rattan @ Kala, Sandeep, Satyawar, Shishpal, Rajesh @ Raja, Krishan, all of them took liquor in the field of Ram Rattan @ Kala and then boarded Bolero vehicle bearing No.HR-06AD-1671 and came to village Bhandari and Rajesh @ Raja, Krishan and Satyawar alighted from the Bolero vehicle near house of Rajesh, then Bijender, Kadam, Ram Rattan @ Kala, shishpal and Sandeep @ Deepu went to the shop of Kadam and conspired to get-rid of Satbir @ Satta and in pursuance of that conspiracy hit Satbir going on motorcycle. When Satbir fell down, then Bolero vehicle was made to hit him again driven by Kadam with the result Satbir @ Sattan fell down; Kadam could not control Bolero vehicle, which fell down in the wheat fields on right side and then came to stop; thereafter Shishpal, Sandeep and Ram Rattan @ Kala after

alighting from the vehicle ran away.

I have heard learned counsel for the parties besides going through the records and I do not find any illegality or infirmity with the impugned order. In the impugned order, it has been noticed that accused is specifically named in the FIR. He is taking plea of *alibi*, which he can take and prove during the defence evidence. The concluding part of the impugned order is relevant and is reproduced as under for ready reference:

This case was registered on the statement made by Mahabir son of Bheem Singh wherein he alleged that on 14.01.2017, he along with Ravinder, Joni and driver Roshan, was going towards Village Bhandari in a Bolero vehicle and at about 07.00 pm, when they reached near Village Bhandari, he saw that his brother Satbir @ Satta was lying on road and his motorcycle bearing registration no.HR06X-5378 was also lying damaged on the road. They lifted his brother Satbir and made him to sit in their vehicle. On his asking, his brother Satbir told that Kadam Singh son of Ram Mehar, Kala (applicant-accused) son of Ramphal and Bijender son of Inder residents of Bhandari, along with two-three other persons hit him twice with Bolero vehicle bearing registration no.HR06D-1671 with intention to kill him and after presuming him to be dead, they sped away towards fields. They shifted his brother to Civil Hospital, Panipat where he was declared dead. Thus, perusal of statement made by complainant Mahabir reveals that

applicant-accused Kala @ Ram Rattan is specifically named in the FIR and specific role has been attributed to him. Investigating agency has also submitted in its reply that the matter does not require any further investigation and there is sufficient incriminating evidence on file against the applicant-accused.

So far as the authority referred by learned counsel for applicant-accused in Dharam Pal Vs State of Haryana's case (Supra) is concerned, Hon'ble Apex Court has held therein that Constitutional Court can order de novo investigation and fresh trial by any investigating agency at any stage of trial. But this court is not a Constitutional Court. Therefore, this court can not order de novo investigation.

I find that there is no need to have further investigation.

Finding no merit in the petition, the same stands dismissed.

15.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No