

In the High Court of Punjab and Haryana at Chandigarh

CRM M-41513 of 2017 (O&M)
Date of Decision: August 27, 2018

Balkar Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. D.S. Pheruman, Advocate,
for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

P.B. Bajanthri, J. (Oral)

1. In the instant petition, petitioners have challenged the order of framing charge dated 06.10.2017 and charge-sheet dated 06.10.2017 (Annexures P/4 and P/5 respectively).

2. Learned counsel for the petitioners submitted that Harjit Singh was labourer and he was working with the petitioners. Due to some scuffle, petitioners have beaten Harjit Singh. Learned counsel for the petitioners further submitted that Harjit Singh died due to cardiac arrest as is evident from Annexures P/2 and P/9 relating to medical opinion to the extent that it was a cardiac arrest and not due to any beatings. Therefore, question of framing charge under Section 304 IPC is illegal. Consequently, challan as well as charge dated 06.10.2017 liable to be set aside. Learned counsel for the petitioners pointed out from the statement of Karaj Singh, who has disclosed that petitioners have beaten deceased Harjit Singh, due to which he died. On the other hand, cause of death is that deceased Harjit Singh suffered cardiac arrest.

3. Per contra, learned State counsel while resisting the petitioners' contention, submitted that having regard to the statement of Karaj Singh, it is evident that petitioners have beaten the deceased Harjit Singh. Moreover, there were injury marks. Due to scuffle between the petitioners and deceased Harjit Singh, certain abrasions and scratches on the back side of deceased Harjit Singh's head and other parts of the body. It was further submitted that if the death of Harjit Singh was due to cardiac arrest, it should have been caused immediately. After beating Harjit Singh, petitioners have taken him in their car which is evident from the Statement given by Karaj Singh. So also it was submitted that if at all petitioners made out a case, there is a provision under Section 216 of Code of Criminal Procedure for alteration of the charge.

4. Heard learned counsel for the parties.

5. Perusal of the record, it is evident that prima facie case is not made out by the petitioners having regard to the statement of Karaj Singh read with timing of the cause and scuffle read with doctors' opinion and histopathological examination report so as to contend that death of Harjit Singh was due to cardiac arrest alone. There may be chances of cardiac arrest at the same time one cannot over look the injuries caused on the body of Harjit Singh. Therefore, petitioners have not made out a case so as to interfere with Annexures P/4 and P/5.

6. Accordingly, present petition stands dismissed.

August 27, 2018

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[P.B. Bajanthri]

Judge

Whether reasoned / speaking : Yes

Whether reportable : No