

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

244

CRM-M-7191-2016 (O&M)

Date of Decision: February 12, 2018

Gurcharan Singh and others

.....Petitioner(s)

versus

State of Punjab and another

.....Respondent(s)

CRM-M-6625-2016 (O&M)

Gurdeep Singh and others

.....Petitioner(s)

versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Karan Bhardwaj, Advocate for the petitioners.

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

Mr. Piyush Sharma, Advocate for respondent No.2

Sudhir Mittal, J. (Oral)

This order shall dispose of **CRM-M-7191-2016** and **CRM-M-6625-2016** as the same have arisen out of same impugned orders. The petitioners lay challenge to the order dated 11.03.2015 (Annexure P-7),

whereby the learned Additional Chief Judicial Magistrate, Ferozepur, has allowed the application, under Section 209 Cr.P.C, filed by the prosecution and has committed the case to the Court of Sessions on account of offence under Section 307 IPC, as well as to the judgment dated 06.07.2015, passed by learned Additional and Sessions Judge, Ferozepur, whereby the revision against the aforementioned order has been dismissed.

2. Learned counsel for the petitioner contends that in the FIR there is no mention regarding use of fire arm. He has also referred to the statement dated 04.11.2007 (Annexure P-3) of the complainant, under Section 161 Cr.P.C. in support of his argument that there is no allegation of use of fire arm or that the fire arm was used with an intention to kill. Reference is also made to the MLR dated 03.11.2007 (Annexure P-2) wherein no gun-shot injury is recorded. It is also submitted that FIR was investigated by number of police officials and they came to the conclusion that the petitioners are not involved in the incident for commission of offence under Section 307 IPC.

3. Learned State counsel assisted by learned counsel for the complainant contends that the present petition is not maintainable as the charge under section 307 IPC has already been framed on 11.04.2016. The present petition does not challenge framing of the charge. He further contends that the complainant has mentioned the use of the fire arm and even if fire arm injury has not been caused, the intention to kill can be gathered from the surrounding circumstances for the purpose of framing of charge.

4. So far as the maintainability of the petition is concerned, learned counsel for the complainant has not been able to convince the Court by citing the law and accordingly the said contention is rejected. A perusal of the FIR

as well as statement of the complainant under Section 161 Cr.P.C., leave no manner of doubt that use of fire arm has been alleged therein. In fact, the complainant in his very first statement averred that because of fire arm shot he lay down on the ground. Recovery of 12 bore gun has already been effected in this case. The use of weapon is stated to be within the confines of the house of the complainant and thus there could be no other motive but to cause grievous injuries to him. Thus, prima facie the offence under Section 307 I.P.C. is made out. The orders of the Courts below cannot be faulted as no illegality has been pointed out therein.

5. The petition is dismissed.

6. A photocopy of this order be placed on the file of other connected case.

February 12, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No