

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

CRR-4351-2016(O&M)

Date of decision:- 30.4.2018

Surinder Singh @ Shinda

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Manjit S. Uppal, Advocate
for the petitioner.

Mr.Rakeshwinder Singh Sidhu, AAG, Punjab.

None for the complainant.

H.S. MADAAN, J.

This revision petition is directed against the order dated 11.8.2016 passed by the Court of learned Additional Sessions Judge, Mansa vide which he had summoned petitioner – Surinder Singh @ Shinda as an additional accused under Section 319 Cr.P.C. to face trial along with the accused already facing trial.

Such petitioner – Surinder Singh @ Shinda prays that the revision petition be accepted and the impugned order be set aside.

Briefly stated, facts of the case as per prosecution story are

that FIR in this case was recorded on the statement of complainant Mohinder Kaur wife of Joginder Singh, which she made to the police on 19.1.2015. *Inter alia* in her statement, she stated that on 18.1.2015 at about 8:30 p.m., they had organized a party on the occasion of marriage of Balwinder Singh alias Babbi son of Jaspal Singh at their home; several persons, which included sons of complainant, namely, Sukhpal Singh and Gurpal Singh besides Major Singh, Bhupinder Singh, Surinder Singh @ Shinda (present petitioner), initially his name was mentioned as Jaswinder Singh @ Shinda but subsequently by way of supplementary statement, the name was corrected, were dancing; Bhupinder Singh and Surinder Singh @ Shinda were having revolvers and they were firing rounds therefrom; Sukhpal Singh asked them to refrain them from doing so, at which Bhupinder Singh and Surinder Singh @ Shinda had an altercation with Sukhpal Singh; Bhupinder Singh fired a shot at Sukhpal Singh hitting him on the face in the left eye near the nose; the complainant and others raised an alarm, then Bhupinder Singh and Surinder Singh @ Shinda ran away from the spot along with their respective weapons; the injured Sukhpal Singh while being taken to hospital at Fatehabad had died on the way.

After registration of the FIR, the matter was investigated. Bhupinder Singh was arrested in this case and sent up to face trial during the course of which, an application under Section 319 Cr.P.C. was filed, which was allowed and Surinder Singh @ Shinda was ordered to be summoned as an additional accused, which left him aggrieved.

I have heard learned counsel for the parties besides going through the record.

The relevant part of the impugned order reads as under:

Complainant Mohinder Kaur stepped into witness box as PW1 and has similarly deposed that on 18.1.2015 in the marriage party of Balwinder Singh @ Bubbi a DJ was being played and interalia her son Sukhpal Singh, Bhupinder Singh @ Bhinda and Surinder Singh @ Shinda were dancing. Bhupinder Singh @ Bhinda and Surinder Singh @ Shinda were firing shots from their licensed revolvers. Sukhpal Singh restrained them from firing leading to the altercation. She has deposed that Bhupinder Singh fired a shot from his revolver towards her son Sukhpal Singh hitting him on his left eye near the nose.

Impugned incident had taken place on 18.1.2015 at about 8:00 to 8:30 p.m. Mohinder Kaur and Major Singh after arranging the vehicle took the injured Sukhpal Singh to Government Hospital, Fatehabad and on way Sukhpal Singh died. Statement of complainant Mohinder Kaur i.e. ruqa was recorded on 19.1.2015 and the endorsement made by the police officials on the said statement of Mohinder Kaur bear a time 2:10 a.m. Thus immediately after the occurrence the statement of complainant Mohinder Kaur was recorded wherein she has specifically mentioned that Surinder Singh @ Shinda along with his brother were firing the shots from their licensed revolvers in the dance party on the D.J. being played at the marriage of Balwinder Singh @ Babbi and

taking of altercation between her son Sukhpal Singh one side and Bhupinder Singh and his brother Surinder Singh @ Shinda on other side. As discussed PW1 Mohinder Kaur in her statement in Court has also narrated the said incident in the above said manner. She has been a eye witness of impugned occurrence. Even in the enquiry reports it has appeared that Surinder Singh @ Shinda was present at the said dance party.

Both Bhupinder Singh and Surinder Singh @ Shinda had an altercation with Sukhpal Singh. When deceased Sukhpal Singh stopped them from firing then Bhupinder Singh fired a shot from his revolver towards Sukhpal Singh leading to his death. Thus at this stage from the above said available record and the evidence of PW1 Mohinder Kaur it is apparent that the shot was fired by Bhupinder Singh and his brother Surinder Singh @ Shinda and deceased Sukhpal Singh. Thus there are sufficient grounds to proceed against Surinder Singh @ Shinda for an offence u/S 302 IPC read with Section 34 IPC.

Defence counsel has filed the case law as reported in Crl.Appeal No.934 of 2004 (Arising out of SLP(Crl.) No.1815 of 2004 D/d 25.8.2004, 2016(1) R.C.R.(Criminal) – 147. However, the said case law is not applicable to the facts of the present case. In case PW1 Mohinder Kaur has made certain improvement in her examination in chief then it is of

no consequence in the light of her statement Ex.PA, FIR and her evidence in the Court. Which as discussed above is sufficient to proceed against Surinder Singh @ Shinda for the impugned offences.

I find that the order passed by the trial Court is well reasoned one not suffering from any illegality or infirmity. The trial Court has recorded its subjective satisfaction that sufficient material is there on the file to proceed against Surinder Singh @ Shinda for the alleged offences. The trial Court is not shown to have exercise the jurisdiction in an arbitrary or perverse manner, which might have called for interference by this Court.

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

30.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No