

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

CRR-407-2018 (O&M)

Date of decision: 02.02.2018

Gora Singh

...PETITIONER

VERSUS

State of Punjab and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.P.S.Tinna, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 28.11.2017 passed by the Additional Sessions Judge, Fazilka, where an application moved by the prosecution under Section 319 Cr. P.C. for summoning Roshan Singh as an additional accused has been dismissed.

It is the contention of the learned counsel for the petitioner that Roshan Singh has been specifically named in the FIR. He further contends that the complainant Gora Singh, who appeared as PW-1 and the eye witness Balwinder Singh, who appeared as PW-2, have specifically named Roshan Singh to be one of the persons, who was instrumental in the performance of naked dance in the house of the deceased, who was the father of the complainant. He contends that although PW-2 Balwinder

Singh has stated in his deposition before the Court that the accused Roshan Singh was not present on the spot but it has been stated that he played active role in the said occurrence which led to a situation where the father of the complainant felt humiliated leading to he having committed suicide by taking insecticide. He, therefore, contends that the impugned order cannot sustain.

Having considered the submissions made by the counsel for the petitioner and on going through the statements of the complainant Gora Singh and the eye witness Balwinder Singh, I do not find any force in the contentions of the learned counsel for the petitioner.

As per the statement of PW-1 Gora Singh, he has named Roshan Singh to be one of the persons to perform naked dance in the house of the complainant. He, however, admittedly was not present at the spot when this part of the occurrence had taken place and, therefore, is not an eye witness.

As regards PW-2 Balwinder Singh, who is an eye witness, although initially the name of Roshan Singh find mentioned amongst the persons who have performed the naked dance in the house of the deceased Natha Singh and having burnt the effigy of Amandeep Singh, the son of the deceased and brother of the complainant. In the subsequent part, he categorically stated that Roshan Singh was not present when the said incident had taken place but had tried to state that Roshan Singh had played an active role in the above-said occurrence. As to how such an active role was being played by Roshan Singh is not forthcoming in the statement of Balwinder Singh and, therefore, it cannot be said that Roshan Singh was the person who was involved directly or indirectly in the said incident. The

order, as has been passed by the learned trial Court, having based upon the proper appreciation of the evidence before the Court do not call for any interference as the same is based upon the settled principles of law

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

February 02, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No