

CRR-178 of 2019 (O&M)

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

CRR-178 of 2019 (O&M)
Date of Decision: 23.01.2019

Maninder Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. P.S. Hundal, Sr. Advocate,
with Mr. Dinesh Trehan, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to order dated 22.10.2018 of the trial Court, whereby petitioner has been summoned under Section 319 Cr.P.C. to face trial under Sections 302, 148 and 149 IPC in case FIR No.72 dated 26.07.2015.

According to the prosecution, in the evening of 26.07.2015 complainant Baljinder Singh along with his brother Sukhjinder Singh and nephew Manpreet Singh alias Sonu had gone to Dhandoi bus stop to fetch some household articles. There Jasbir Singh alias Golu met them. They started talking to each other. In the meantime, nephew of the complainant Manpreet Singh alias Sonu went to M/s Basra General Store to purchase household articles. When he was about to reach the shop, Harinder Singh alias Raja, Maninder Singh and Kewal Singh alias Raju along with three unidentified persons in i-20 car and black Pulsor motorcycle came from the side of Village Harpura and stopped their vehicles in front of M/s Basra General Store. All the aforesaid persons rushed towards Manpreet Singh.

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Petitioner-accused Maninder Singh raised *lalkara*, on which Kewal Singh alias Raju caught hold arms of Manpreet Singh. Thereafter, accused Harinder Singh alias Raja gave three *kirch* blows to Manpreet Singh with an intention to kill him. Two blows hit near his heart and one on the back, due to which Manpreet Singh fell down on the ground. On raising alarm by complainant and others, accused fled away from the spot along with their weapons. Resultantly, Manpreet Singh became unconscious. He was taken to Civil Hospital, Batala, where he was declared dead.

After investigation, final report under Section 173(2) Cr.P.C. was submitted only against Harinder Singh alias Raja. Petitioner Maninder Singh and co-accused Kewal Singh alias Raju were declared innocent. Their names were placed in column No.2 of the report.

Complainant moved application under Section 319 Cr.P.C. against the petitioner and Kewal Singh @ Raju, which was allowed vide impugned order dated 22.10.2018 by the learned Additional Sessions Judge, Gurdaspur.

Learned counsel for the petitioner relying upon ***Bakhshish Singh Sarpanch v. State of Punjab and another***, 2018(4) R.C.R. (Criminal) 164 *inter alia* contends that no role has been attributed to the petitioner except raising lalkara. Petitioner was found innocent by two Superintendents of Police and their investigation, declaring the petitioner innocent, was approved by the Deputy Inspector General of Police. No new evidence was brought by the prosecution or the complainant while appearing as PW1 over and above or in addition to the initial version recorded in the FIR. Therefore, trial Court has wrongly summoned the petitioner under Section

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Having given anxious consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reasons to follow: -

It is a murder case in which a human being in his young age has lost his precious life. Therefore, things cannot be taken so lightly as have been put up before this Court by learned counsel for the petitioner.

Time gap between the occurrence and recording the FIR is only 2½ hours. Therefore, no colourful version or afterthought story can be expected in the initial version of the complainant, which had culminated into FIR. Therefore, initial version of the complainant is not liable to be dis-believed, when the same is again corroborated by him, while appearing as PW1 in dock.

Petitioner is very-well named in the FIR. He actively participated in the commission of crime. Rather, in the considered opinion of this Court, he is the main accused, who instigated his accomplice by raising lalkara to teach a lesson to the deceased, whereupon accomplice of the petitioner caused injuries to the deceased. As a result thereof, he died. Complainant as PW1 specifically named the petitioner.

The procedure of enquiry by two Superintendents of Police and its approval by the Deputy Inspector General of Police is unknown to the Code of Criminal procedure. Therefore, the same cannot be made basis for rejecting the satisfaction of the trial Court, who after hearing both the sides, has ordered to summon the petitioner as additional accused under Section 319 Cr.P.C.

In ***Bakhshish Singh*** (supra) a Co-ordinate Bench of this Court in

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the report of the Deputy Superintendent of Police, which, was upheld by the Senior Superintendent of Police, Ferozepur, which to the considered opinion of this Court, was not required by the trial Court inasmuch as the trial Court had to frame its own opinion after scrutinising the evidence led before it. Even otherwise, facts and circumstances of the authority referred to above are not identical to the instant case inasmuch as in that case the person, who was summoned as additional accused, as a Sarpanch had tried to resolve the matter between father and son. Therefore, there may be a reason that he might have been falsely implicated. Whereas, as discussed above, petitioner, herein is very much named in the FIR and his active role has also been ascribed therein.

Challenge was also laid to the impugned order by co-accused of the petitioner, namely, Kewal Singh by way of CRR-163 of 2019, which was dismissed on 21.01.2019, upholding the impugned order.

In view of discussion made above, petition is dismissed.

However, anything observed in this order shall not affect the merits of the case.

January 23, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No