

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-10383-2014 (O&M)

Date of decision: 11.02.2019

Daljit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Gurcharan Dass, Advocate for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. IPS Kohli, Advocate for respondents No. 2 to 10.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing order dated 13.03.2014 (Annexure P-9), whereby application of the petitioner dated 24.02.2014 (Annexure P-8) for commitment of his case to the Court of Sessions, was dismissed.

Briefly, on 09.07.1993, grand-son of the petitioner, namely; Paramjit Singh, was allegedly killed by Mohinder Kaur-respondent No. 11, in connivance with the police. Consequently, the petitioner approached the police for the murder of his grandson, but when it did not take any action, he approached this Court vide CRM-M-4188-1998, for direction to the police to probe into the murder of his grand-son, whereupon this Court ordered the Chief Judicial Magistrate, Rupnagar, to make enquires and submit his report. Pursuant thereto, Chief Judicial Magistrate, Rupnagar reported that Paramjit Singh was killed accidentally in cross firing between

the police and the terrorists. Consequently, this Court vide order dated 01.04.2002 (Annexure P-1), awarding interim compensation of Rs.1,00,000/- to the legal heirs of deceased-Paramjit Singh, granted liberty to the petitioner to file complaint or to take such other alternative remedy, as may be available to him under the law. Consequently, the petitioner filed Complaint No. 159 dated 20.05.2002 (Annexure P-2) against the police officials and Mohinder Kaur W/o Gurdev Singh, under Section 302 read with Section 34 and Section 120-B IPC, in which the trial Court after recording preliminary evidence summoned all the respondents vide order dated 22.11.2003 (Annexure P-3). Thereafter, respondents No. 2 to 11 were charge-sheeted under Sections 304-A and 120-B IPC, vide order dated 02.03.2009. The said order dated 02.03.2009 framing charge against respondents No. 2 to 11, was challenged by the petitioner before the Revisional Court vide Criminal Revision No. 14 dated 11.04.2009, but did not succeed as his revision was dismissed vide order dated 14.09.2010 (Annexure R-2/B). Thereafter, the petitioner moved an application for commitment of the case to the Court of Sessions which was dismissed on 07.09.2013. Against the said order, the petitioner again approached the revisional Court by way of CRR No. 5400 dated 25.09.2013, but again remained un-successful as the said revision was also dismissed by the Revisional Court vide order dated 20.12.2013 (Annexure R-2/C). Thereafter, the petitioner moved two applications i.e. one under Section 311 Cr.P.C. dated 20.01.2014 (Annexure P-4), for allowing the complainant to place and prove on record statement of Mohinder Kaur wife of Raghbir Singh recorded in case titled as 'State Vs. Avtar Singh and another', arising out of FIR No. 12 dated 17.02.2000, under Sections 302, 307, 120-B read

with Section 34 IPC, Police Station Chamkaur Sahib and another under Section 294 Cr.P.C., dated 30.01.2014 (Annexure P-5) for directing Mohinder Kaur, to admit or deny the statement suffered by her as PW-6 in the aforesaid State case. The trial Court vide consolidated order dated 12.02.2014 (Annexure P-6) dismissed the first application under Section 311 Cr.P.C. (Annexure P-4) whereas the second application under Section 294 Cr.P.C. was allowed.

Consequently, now due to change in circumstances because, respondent No. 11 had admitted the death of Paramjit Singh in her house caused by other co-accused not accidentally in cross fire, but his intentional killing by the police, petitioner moved application (Annexure P-8) for committal of the case to the Court of Sessions, which was dismissed vide impugned order (Annexure P-9).

Heard.

Having given thoughtful consideration to the rival submission, this Court is not inclined to differ with the findings of the trial Court for the reasons to follow:

Statement of respondent No. 11-Mohinder Kaur, upon which much reliance has been placed by learned counsel for the petitioner itself narrates the death of Paramjit Singh, in a cross fire.

As on date, there is no direct evidence against the respondents that they intentionally and deliberately committed murder of Paramjit Singh may be in the alleged cross-fire or otherwise. On the basis of statement of respondent No. 11-Mohinder Kaur, suffered by her in case FIR No. 12 dated 17.02.2000, which was permitted to be taken on record vide order Annexure P-6, the respondents could not have been committed to the Court of

Sessions to face trial under Section 302 IPC, inasmuch as, the matter requires appreciation of evidence, which can only be done after examination of complainant/petitioner's witnesses.

The Magistrate had also found in his enquiry that Paramjit Singh was killed accidentally in a cross fire case. Therefore, the impugned order is perfectly legal.

The petitioner's evidence is going on. In case, after recording petitioner's witnesses and defence version, the trial Court comes to the conclusion that there is a *prima facie* evidence for committal of the case Court of Sessions, in that eventuality, the trial Court is at liberty to do the same, but prior to that stage, it is pre-mature to say that any of the private respondents had any intention to kill the grandson of the petitioner.

I have carefully gone through the impugned order and find no illegality of perversity in the same. The instant petition being meritless is dismissed.

February 11, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No