

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

**CRM-M No. 12592 of 2019
Date of Decision:-09.04.2019**

Ashok Kumar Sethi

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. K.S. Kahlon, Advocate
for the petitioner.

MANOJ BAJAJ J.(Oral)

Petitioner Ashok Kumar Sethi has filed the present petition under Section 482 Cr.P.C. for quashing of FIR No.27 dated 11.2.2018, under Section 304 read with Section 34 IPC read with Section 27/30-54-59 of Arms Act (Annexure P-1) (later on Section 302 read with Section 34 and Section 25/27 of the Arms Act convered in the aforesaid sections), registered at Police Station City, Hoshiarpur and also to quash DDR No.17 dated 12.1.2019 for adding offence under Section 34 IPC (Annexure P-7).

Learned counsel for the petitioner contends that after investigation final report stands submitted before the trial Court. It is further contended that an inquiry was also conducted, which is part and parcel of the final report submitted before the trial Court and the

involvement of the petitioner is not established. Learned counsel for the petitioner refers to the FSL Report (Annexure P-2) and the relevant portion of the same i.e. the result of the examination, is extracted below :-

“RESULT OF EXAMINATION

On the basis of careful scientific examination it has been concluded that :-

- 1. The 0.32 inch revolver bearing No.FG-24634 marked W/1 contained in parcel 'B' referred above is in working condition.*
- 2. Two 0.32 inch “KFS&WL' cartridge cases marked C/1 & C/2 contained in parcel 'A' had been fired through -.32 inch revolver bearing No.FG-24634 contained in parcel 'B' referred above.*
- 3. Two badly deformed metallic pieces contained in parcel 'C' referred above could be portion of projectile of lead bullet and not components of 12 bore cartridges.*
- 4. Five 0.32 inch 'KFS&WL' cartridges marked L/1 to L/5 contained in parcel 'B' referred above are live cartridges.”*

It is contended that the above observation of the FSL Report does not establish the use of the weapon used in the crime, which is licensed weapon and belongs to the petitioner.

After hearing the learned counsel for the petitioner this Court is of the considered opinion that the entire petition is founded on disputed facts. It is conceded by learned counsel that the offence punishable under Section 302 IPC was converted to Section 304 IPC on the basis of alleged inquiry conducted by the Superintendent of Police (City), Hoshiarpur

(Annexure P-3).

At this stage, it will not be appropriate to accept the inquiry report of the said officer. It is apprised by learned counsel that the case is now fixed for framing of charges for today itself.

It will be seriously debatable as to the offence punishable under Section 302 IPC is made out or not. Therefore, no ground is made out for invoking inherent powers under Section 482 Cr.P.C. at this stage. However, it shall be open for the petitioners to raise the issues raised in this petition at an appropriate stage before the trial Court.

Dismissed.

April 09, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No