

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

CRM No.M-40214 of 2015 (O&M)

Date of Decision: May 07, 2019

Iqbal Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Brar, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr. DAG, Punjab
for the respondent-State.

Mr.Vivek Suri, Mr.Karunesh Kaushal and
Mr.Bawa Karamveer, Advocates
for respondent No.2.

INDERJIT SINGH, J.

Petitioner Iqbal Singh has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Bhavuk Raghuvansh, for quashing of judgment dated 06.07.2015 passed by learned Addl. Sessions Judge, Patiala, vide which revision petition filed by the petitioner challenging the order dated 11.12.2014 passed by learned Principal Magistrate, Juvenile Justice Board, Patiala, for alteration and addition of charges framed on the basis of incomplete and shoddy investigation in the case, was dismissed.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that an application was filed by the complainant before Principal Magistrate, JJB, Patiala, for submission of documentary evidence for addition and alteration of charge under Section 216 Cr.P.C. It is stated in the application that on 02.08.2012, juvenile Bhavuk Raghuvansh was charged under Section 279 and 304-A IPC and due to shoddy and incomplete investigation at the initial level, certain material facts could not be brought on record. It is also stated that juvenile who was driving the car, allegedly rammed it into a tree and did not possess any driving licence from the competent authority. Therefore, request has been made for addition and alteration of charge and in this regard, certain documentary evidence was produced by the complainant.

After hearing the parties and after perusing the record, learned Principal Magistrate, JJB, Patiala, held that challan has been presented under Sections 279 and 304-A IPC. Charge has already been framed on 02.08.2012 and present case was registered on 26.03.2012. Now, when the case was fixed for prosecution evidence, the complainant has moved application for addition and alteration of charge on the basis of various documents. The Magistrate further held that perusal of the application reveals that this application was not even forwarded by learned APP for the State and even was not supported by any affidavit. Learned Principal Magistrate also held that Investigating Officer has already presented the challan after collecting the entire evidence and this application has been filed by the complainant only to linger on the proceedings. The revision

Sessions Judge, Patiala, vide impugned judgment dated 06.07.2015.

The facts of the case as noted down by learned Addl. Sessions Judge, Patiala, in the impugned judgment dated 06.07.2015 are as under:-

“The brief Story and allegations of the prosecution are that daughter of the complainant was studying at Thaper Polytechnic college, Patiala, and she lived in a PG along with her room-mate Mandeep Kaur. On 25.3.2012, her room mate Mandeep Kaur pursued her and taken her to Dukhniwaran Gurdwara, from where they went for an outing in the car of accused Bhavuk Raghuvansh along with one Danveer Singh who was the friend of deceased room-mate Mandeep Kaur. As per the allegations of prosecution the room mate of deceased wanted to entangle the deceased Davinder Kaur, with Bhavuk Raghuvansh, who is the friend of Danveer Singh. On their way to Bhakhra Canal Road, Danveer Singh and Mandeep Kaur left the car, on the way and thereafter, accused Bhavuk Raghuvansh and Davinder Kaur went ahead and thereafter accused started driving the car rashly and negligently, resultantly, he rammed his car into a tree, in this accident victim Davinder Kaur died. The challan was presented against the accused, and charge was framed on 2.8.2012, under section 279 IPC for rash and negligent driving and under section 304-A of IPC for causing death of Davinder Kaur. Thereafter complainant filed an application under section 216 Cr.P.C for alteration of the charge under section 304 IPC which was dismissed by the ld. trial court, by observing that,

“Perusal of the file reveals that in the present case the challan has been presented under section 279/304A IPC against juvenile Bhavuk Raghuvansh. Charge in this case has already been framed on 2.8.2012 and the present case was registered against the Juvenile on 26.3.2012. Now when the case was fixed for prosecution evidence. The complainant has moved this application for addition and alteration of charge under section 216 Cr.P.C on the basis of various documents. Perusal of the application reveals that this application was not even forwarded by the ld. APP for the State and even was not supported by any affidavit. Otherwise also it is the prerogative of the State to file this application. Now the trial has already been commenced and even after the lapse of two years the complainant has come with a new plea. The investigating officer has already presented the challan after collecting the entire evidence which was available at the spot. No doubt charge can be altered at any time before judgment is pronounced to meet the ends of justice but I am of the considered view that the complainant has moved this application only to linger on the proceedings of the present case. Neither the application is supported by any affidavit nor

this application has been forwarded by the Public Prosecutor. According it is not the duty of the complainant to himself investigate the matter in this case. No ground is made out to alteration and addition of the charge.”

I have gone through the impugned order and judgment as well as the FIR got registered by the complainant in this case. The perusal of the FIR itself shows that accused and deceased were travelling in the same car, which hit a tree. The allegations in the FIR are that the accident took place due to the negligence of the accused, who was driving the car and who was minor and not having any driving licence. There is nothing in the FIR that accused wanted to kill Davinder Kaur, daughter of present complainant. The perusal of the FIR does not show any motive or enmity. The challan has been presented after completion of investigation and commission of offence under Section 304 IPC is, prima facie, not made out.

From the perusal of the FIR, at this stage, learned Principal Magistrate, JJB, Patiala has rightly dismissed the application there being no material to frame alternate charge.

In view of the above discussion, I find that no illegality has been committed by learned Courts below while passing impugned order and judgment.

Therefore, finding no merit in the present petition, the same is dismissed.

May 07, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No