

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3685-2017 (O&M)

Date of Decision: 04.02.2019

Sohan Singh and another

.... Petitioners

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. AS Sekhon, Advocate for the petitioners.

Mr. Harpreet Multani, AAG, Punjab.

Mr. Ashish Gupta, Advocate for the complainant.

RAMENDRA JAIN, J. (ORAL)

Learned counsel for complainant-Gurbax Singh, has filed Power of Attorney, on his own, though he has not been impleaded as party. The same is taken on record. Office to tag the same at the appropriate place.

Through this revision, the petitioners have laid challenge to the order dated 05.08.2017, passed by the learned Sessions Judge, Faridkot, whereby they have been summoned under Section 319 Cr.P.C. as an additional accused on the application of prosecution.

Briefly, in the evening of 09.04.2013, around 11 persons armed with deadly weapons like pistols, guns, lathis etc. encircled the complainant, his brother Ranjit Singh and their friend-Gursharanjit Singh @ Sharanjit Singh @ Sharni, in Ram Leela ground Jaitu and caused injuries including fire arm injury to Ranjit Singh-brother of complainant

and Gursharanjit Singh @ Sharanjit Singh @ Sharni. Since, the injuries suffered by them were serious in nature, so the complainant after arranging vehicle shifted them to Guru Gobind Singh Medical College and Hospital, Faridkot for treatment. However, around 6.30/7.00 PM, co-accused of the petitioners, namely; Chamkaur Singh @ Kaura armed with revolver, suddenly came inside their room in hospital and after raising '*lalkara*' fired shots from his revolver upon Ranjit Singh, brother of the complainant sitting on the bed, out of which three shots hit on his head and one shot hit Gursharanjit Singh @ Sharanjit Singh @ Sharni, in his abdomen. As a result thereof, Ranjit Singh, succumbed to his fire shot injuries on that very night. On the basis of statement of Gurbax Singh to the above stated effect, FIR No. 84 dated 09.04.2013 was registered under Sections 302 and 307 IPC and Sections 25 and 27 of the Arms Act at Police Station Kotwali, City Faridkot.

After completion of investigation, final report under Section 173(2) Cr.P.C. was filed only against co-accused-Chamkaur Singh @ Kaura, as he was solely named for the death of Ranjit Singh. After recording the statement of eye-witness Gursharanjit Singh, @ Sharanjit Singh @ Sharni as PW-9, prosecution moved application under Section 319 Cr.P.C., to summon the petitioners as additional accused.

Learned counsel *inter alia* contends that in the statement of complainant as well as that of alleged eye-witness, namely; Gursharanjit Singh @ Sharanjit Singh @ Sharni, under Section 161 Cr.P.C., which culminated into FIR, none of the petitioners was named as accused. The name of the petitioners for the first time was mentioned in the statement

of alleged eye-witness Gursharanjit Singh as PW-9, which is a clear-cut improvement.

On the other hand, learned State counsel assisted by learned counsel for the complainant vehemently refuting the submissions of learned counsel for the petitioners, pleaded the legality and validity of the impugned order. He contended that the petitioners were named as assailants while recording DDR No. 42 dated 17.04.2013 i.e. after 8 days of the occurrence.

Having given thoughtful consideration to the rival submissions of both the side, this Court finds merit acceptance of this revision for the reasons to follow:

The petitioners were named in DDR No. 42 dated 14.04.2013 i.e. after 8 days of the occurrence recorded by the complainant only qua the first occurrence which had occurred in Ram Leela Ground, Jaitu. Death of Ranjit Singh, occurred in second incident took place at Guru Gobind Singh Medical College and Hospital, Faridkot, where Ranjit Singh and Gursharanjit Singh, were under treatment, after sustaining injuries in the first incident in Ram Leela ground, Jaitu.

While recording the FIR, both the complainant and the alleged eye-witness/injured namely; Gursharanjit Singh @ Sharanjit Singh @ Sharni, had named only Chamkaur Singh @ Kaura, as assailant, who fired thrice from his revolver at deceased-Ranjit Singh and Gursharanjit Singh @ Sharanjit Singh @ Sharni. During investigation also, the complainant or aforesaid injured never made any supplementary statement showing complicity of the petitioners or that they were

accompanying their co-accused-Chamkaur Singh @ Kaura, who is facing trial.

Naming the petitioners after around 2 years and 4 months by the alleged eye-witness Gursharanjit Singh @ Sharanjit Singh @ Sharni in his statement as PW-9, in the foregoing para of his statement, is certainly a major improvement. More so, no role has been attributed to the petitioners except that they gave '*lalkara*' to Chamkaur Singh @ Kaura to eliminate Ranjit Singh, which fact without any specific role seems to be an afterthought or a concocted story.

In view of the discussion made above, the instant revision is allowed. Impugned order dated 05.08.2017, of the trial Court is quashed.

February 04, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No