

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

CRR-3208-2018 (O&M)
Date of decision : 15.10.2019

Rahul

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Nitin Sachdeva, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Saurabh Sharma, Advocate for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Petitioner, accused is in the revision petition against the order passed by the learned Additional Session Judge, Kurukshetra amending charge Nos.4 and 5 against him.

As per the case of the prosecution, Ravi was murdered. The petitioner-Rahul started abusing the wife of the first informant and tore her clothes. When she resisted and first informant intervened, Rahul went to his house and brought a sword and attacked first informant. Father of Rahul, Jai Bhagwan, fired a shot from his double barrel gun which did not hit anyone. However, Jai Bhagwan came out of his house with the gun in his hand and killed Ravi while inflicting fatal firearm injury. Initially, case under Section 307 was registered and thereafter offence under Section 302 was added. The charge against the petitioner under Section 302 read with Section 34 IPC was not framed, however, charge under Section 302 and other provision was framed against Jai Bhagwan. After the prosecution has lead sufficient evidence, application under Section 216 Cr.P.C. was filed for amendment of the charge.

Learned Court after appreciating the material available on the record amended charge Nos.4 and 5.

This Court has heard learned Senior Counsel for the petitioner, as well as for the first informant and counsel for the State.

Learned Senior Counsel has submitted that from the reading of the FIR, no common intention can be gathered between Jai Bhagwan and petitioner-Rahul. He further submits that petitioner is alleged to have given injuries to the first informant with the blunt side of a sword normally used for grass cutting and, therefore, no common intention is established as Jai Bhagwan had come out of the house after the petitioner had allegedly already attacked the victim-injured. Hence, he submits that amendment of the charge ordered by the Court is erroneous.

This Court has considered the submissions. However, find no substance therein.

It is permissible to the Court to amend the charge at any stage. It would be matter of evidence as to whether the petitioner shared common intention to kill Ravi or not with his father. This can only be established after prosecution has led its entire evidence. The Court of Sessions has after considering the material available on file has considered it appropriate to amend the charge, it would not be appropriate for this Court to interfere particularly when trial is still pending.

Accordingly, the present petition is dismissed.

15.10.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No