IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Misc. No.M-41301 of 2019 (O&M)
Date of Decision: September 25, 2019

Lalit Kumar @ Lalli

.....PETITIONER(s).

VERSUS

State of Punjab and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. H.S. Mann, Advocate
for the petitioner (s).

****

SURINDER GUPTA, J.

Petitioner Lalit Kumar @ Lalli seeks reinvestigation and quashing of the case bearing FIR No.15 dated 10.02.2019 registered at Police Station Kotwali Bathinda for offence punishable under Sections 302, 120-B of Indian Penal Code (for short-IPC) and 27 of Arms Act, 1959 in which challan dated 07.05.2019 was presented in Court for the offences punishable under Sections 302, 120-B IPC and 27 of Arms Act. He is aggrieved of the fact that challan was presented pursuant to the investigation conducted by Special Investigating Team constituted by Senior Superintendent of Police, Bathinda without order of the Court, whereby the report of earlier investigation conducted by Superintendent of Police (City), Bathinda was ignored.

Brief facts:-

Instant FIR was registered on the statement of Gurnaib Singh

SACHIN MEHTA
2019.10.01 16:41
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

son of Ghamanda Singh. His nephew Raminder Singh was living with him. On 10.02.2019, two boys namely Dipanshu and Gurnoor took Raminder Singh to their house to celebrate *Basant Panchmi* festival. When Raminder did not return till late in the night, complainant along with his friend Lakhvir Pal reached Mehna Chowk, Bathinda searching for Raminder. They found that petitioner Lalit Kumar was arguing with Raminder for not paying the motorcycle repair bill. He (petitioner) took out revolver from his pocket and fired a shot in the air. The second shot hit the left side of chest of Raminder Singh. Lalit Kumar proclaimed that Raminder had to face consequences of not paying due amount to him. Thereafter, he pointed the revolver towards complainant, who went backward out of fear. Lalit Kumar put Raminder with the help of some other person in a vehicle and ran away from the spot. When the complainant inquired about his nephew from various hospitals, he found his dead body lying in IVY Hospital.

Before proceeding further, it will be relevant to take a note of the fact that after filing of challan, the case was committed to the Court of Sessions, where the petitioner has been charge-sheeted. The order framing charge has not been challenged by the petitioner.

In support of his arguments seeking quashing of the challan presented in Court, learned counsel for the petitioner has raised following issues:-

(i) The case was earlier investigated by Superintendent of Police (City), Bathinda, who recommended the deletion of offence under Section 302 IPC and addition of Section 304 IPC in the FIR. On the basis of his report, a DDR No.24 dated 15.04.2019 was recorded and challan for

SACHIN MEHTA
2019.10.01 16:41
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

presentation in Court was also prepared. However, Senior Superintendent of Police, Bathinda constituted a Special Investigating Team, which conducted further investigation and recommended presentation of challan under Section 302, 120B IPC and 27 Arms Act. Learned counsel for the petitioner has argued that order of Senior Superintendent of Police, Bathinda constituting Special Investigating Team is contrary to the directions issued by Director General of Police, Punjab, Chandigarh vide letter No.137-223/PA/DGP dated 01.04.2008.

(ii) Further investigation by Special Investigating Team was ordered without taking permission from the Court.

(iii) Even after presentation of challan, this Court is competent to order re-investigation to meet the ends of justice. In support of his contention, he has relied on the observations of Hon'ble Apex Court in case of ***Vinay Tyagi Vs. Irshad Ali @ Deepak and others 2013 (4) SCC(Cri.) 557.***

(iv) After presentation of challan, copies of statements of all the witnesses examined during first and second inquiry were not supplied to the petitioner and his application in this regard was declined by the trial Court.

Vide letter dated 01.04.2008, DGP, Punjab has tried to curb repeated inquiries on a complaint or the case registered by the police. It was impressed that in a case, only one complete inquiry be conducted. If the inquiry is to be got conducted from a higher Officer outside District/Range, the permission of DGP, Punjab or Punjab Government was made compulsory. The above instructions were issued on administrative side and if the same are not complied, it is for the higher officers to look into the

SACHIN MEHTA
2019.10.01 16:41
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

matter. In this case, inquiry was not conducted outside the District or Range by the higher Officer. Superintendent of Police (City), Bathinda after conducting investigation, recommended presentation of challan for offence punishable under Section 304 IPC. After preparation of challan, it was submitted before Senior Superintendent of Police, Bathinda, who instead of agreeing with the report of Superintendent of Police (City), Bathinda ordered further investigation by constituting a Special Investigating Team comprising of respondents No.5 to 7.

Learned counsel for the petitioner could not cite any law that if the Senior Superintendent of Police, Bathinda was not satisfied with the investigation, conducted by Superintendent of Police (City), Bathinda, he required permission of the Court for further investigation before presentation of challan. The action of Senior Superintendent of Police, Bathinda constituting Special Investigating Team for further investigation is neither against the directions issued by DGP, Punjab or against the provisions of law.

It is a case where the complainant is alleging that the petitioner had fired at his nephew, who suffered injuries and died. The case is based on eye-witness account. The petitioner at the time of framing of charge could address arguments on the basis of evidence collected by the police that offence under Section 302 IPC is not made out. However, he has not preferred to challenge the order whereby learned trial Court found prima facie case for the offence punishable under Section 302 IPC and framed charge against him accordingly.

So far as the question of non-supplying of copies of relevant

SACHIN MEHTA
2019.10.01 16:41
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh

documents and statements of witnesses is concerned, the same does not call for any comments in this petition, as the petitioner has not challenged any such order passed by the trial Court in this petition.

The observations in case of ***Vinay Tyagi Vs. Irshad Ali @ Deepak and others (supra)*** are also not applicable to the facts of the present case, as the petitioner has not been able to make out that investigation conducted in this case was unfair, mala fide, tainted and smells of foul play.

Keeping in view the above facts, I find no merits in this petition and the same is ordered to be dismissed.

(SURINDER GUPTA)
JUDGE

September 25, 2019
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***

SACHIN MEHTA
2019.10.01 16:41
I attest to the accuracy and
authenticity of this document
High Court, Chandigarh