

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

Criminal Revision No.2626 of 2019(O&M)

Date of Decision: December 20, 2019

Kulwinder Ram @ Deepa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: - Mr.Vishal Garg, Advocate
for the petitioner.

-

HARINDER SINGH SIDHU, J.

Challenge herein is to the order dated 27.03.2019 passed by Additional Sessions Judge, Barnala, whereby, the petitioner has been charged for the offence punishable under Section 302 of the Indian Penal Code.

Briefly, the case is that a telephonic message was received on 18.11.2018 that Bhupinder Singh @ Bhinder s/o Darshan Singh had been admitted in an injured condition in Adesh Hospital, Bhucho Mandi. On 19.11.2018 ASI Gurdas Singh reached Adesh Hospital and sought opinion of the doctor regarding fitness of the injured to make statement. He was declared unfit to make statement. On 20.11.2018 also, he was declared unfit to make statement. As per MLR, he was unconscious. On 20.11.2018 statement of Darshan Singh father of Bhupinder Singh was recorded by ASI Sarabjit Singh. He stated that he has two sons. Bhupinder Singh @ Bhinder was his younger son. He used to work in the workshop of Kuldeep Singh,

situated on Barnala Road, Tappa. On 18.11.2018, his son had gone to the workshop as usual. At about 7.00 pm his son Bhupinder Singh and Deepa s/o Bhola were arguing about something. Deepa had a rod in his hand. The complainant stopped his motorcycle and was about to enquire as to what was the matter. Kuldeep Singh, the owner of the workshop also came there. Before they could react, Deepa hit his son on the head with the iron rod which he was holding in his hand. The complainant and Kuldeep Singh intervened. His son fell down. He was unconscious. The assailant ran away. They arranged for a vehicle and brought his son to Bhucho hospital.

The FIR was registered under Section 308 IPC. Bhupinder Singh died on 21.11.2018. Thereafter, offence under Section 302 IPC was added. During the course of the investigation, accused Deepa was arrested. On his disclosure statement, the iron rod having a hook was recovered. After completion of investigation, challan was filed against the accused under Section 302 IPC.

Vide the impugned order charge has been framed against the petitioner under Section 302 IPC.

The only argument of Ld. counsel for the petitioner is that as the FIR was initially registered under Section 308 IPC and Bhupinder Singh died thereafter. Therefore charges ought to have been framed under Section 304 IPC and not under Section 302 IPC.

It is not possible to accept this argument. Mentioning of a particular section in the FIR is not conclusive. It is for the Court to frame charges as per the material on record. In the present case, the petitioner had inflicted a blow on the head of the accused with an iron rod which resulted

in his death. The iron rod which was got recovered by the petitioner had

blood stains on its hook. At the stage of framing charge the Court has only to form a prima facie view that on the basis of material on record a particular offence is attracted.

Ld. Counsel for the petitioner has not referred to the MLR or Post mortem report of the deceased or any other material in the report under Section 173 Cr.P.C. to substantiate his assertion that the petitioner is liable to be charged under Section 304 IPC and not under Section 302 IPC.

In the absence thereof no ground is made out to interfere with the impugned order. The petition is dismissed.

Nothing said hereinabove shall be construed as an expression of opinion on the merits of the matter.

December 20, 2019
gian

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No