

244
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2019 15:23
I attest to the accuracy and
authenticity of this document

CRM-M-39839-2018 (O/M)
Date of decision : 9.1.2019

Bhagat Singh

..... Petitioner (s)

Versus

Rajinder Singh Kaura and another

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashok Bhardwaj, Advocate,
for petitioner.

Mr. Ankush Sharma, Advocate, for,
Mr. M.K. Dogra, Advocate,
for respondents.

-.-

-.-

KULDIP SINGH, J. (ORAL)

Impugned in present petition, filed under Section 482 Cr.P.C., is order dated 15.10.2015 (Annexure-P-4), passed by learned Additional Sessions Judge, SAS Nagar, Mohali, vide which revision, filed by present petitioner against order dated 31.7.2014, passed by learned Sub Divisional Judicial Magistrate, Dera Bassi, requesting for addition of Sections 380, 440, 457 IPC, was dismissed.

Brief facts of case are that petitioner has filed a criminal complaint against Rajinder Singh Kaura and Jaskaran Bir Singh under Sections 457, 392, 504, 506, 323, 427, 511, 148, 149, 120-B IPC in the Court of learned Sub Divisional Judicial Magistrate, Dera Bassi. Vide order dated 29.7.2011 (Annexure-P-2), accused were chargesheeted under Sections 457, 380, 427, 323, 506 IPC read with 34 IPC only.

After recording pre charge evidence, accused were chargesheeted under Sections 447, 323, 379, 506, 427 IPC read with

Section 34 IPC, vide order dated 31.7.2014 (Annexure-P-3). The grouse of petitioner is that accused should have also been chargesheeted under Sections 380, 440, 457 IPC.

I have heard learned counsel for parties and have also carefully gone through file.

The learned counsel for petitioner very fairly concedes that in this case, FIR was registered. It is contended that proper investigation was not conducted and police submitted cancellation report which has been accepted by learned Illaqa Magistrate. Thereafter, petitioner had filed present complaint. The learned counsel for petitioner contends that order dated 15.10.2015 (Annexure-P-4), passed by learned Additional Sessions Judge, SAS Nagar, Mohali, is perverse. Certain wrong facts have been mentioned that water was served by son of petitioner and not by accused, as mentioned in the order.

Perusal of impugned order dated 15.10.2015 (Annexure-P-4) shows that after discussing the facts, the learned Additional Sessions Judge came to conclusion that offence under Sections 380, 440, 457 IPC are not attracted.

The learned counsel for petitioner contends that accused came to spot with deadly weapons and that offence was committed at night. Therefore, offence under Sections 380, 440, 457 IPC are made out.

Petitioner claims that after he was beaten up by accused, they took away his purse containing Rs. 250/- and one karra of gold, weighing about 40 grams. It is further alleged that they entered into Dhir Property. Further allegation in complaint shows that accused only demolished outer wall and gate with JCB machine.

I am of the view that trial Court has examined pre charge

evidence of petitioner to find out as to which allegations are to be relied upon and which are not to be relied upon. The order was tested before revisional Court. The final judgment is yet to be delivered. Therefore, at this stage, it cannot be said that trial Court wrongly appreciated pre charge evidence to omit charges under Sections 380, 447, 457 IPC. There is no ground to interfere in impugned order dated 15.10.2015 (Annexure-P-4). Hence, petition is dismissed.

(KULDIP SINGH)
JUDGE

9.1.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No