

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 3542 of 2018 (O & M)
Date of Decision: 11.12.2019

Ruman

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Lajpat Sharma, Advocate for
Mr. Lalit Pardhan, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Yashveer Kharb, Advocate
for respondent No. 2.

HARNARESH SINGH GILL, J.

CRM-37835-2018

This is an application under Section 482 Cr.P.C. for the grant of permission to the applicant to file the present revision petition as the complainant (her husband) has since expired.

Heard.

In view of the grounds mentioned in the application, the present application is allowed and the applicant is permitted to file the present revision petition.

Crl. Revision No. 3542 of 2018

The petitioner has filed this petition challenging the order dated 4.8.2018 passed by the learned Additional Sessions Judge, Jind vide which accused-respondent No. 2 was discharged for the commission of offence

punishable under Section 307 IPC and the case was remanded back to the trial Court to proceed further with the trial in accordance with law.

At the arguments' stage, the trial Court had considered the application of the complainant (Ex. PW-6/A) that the accused with an intention to kill him had fired a gun-shot towards him from his licensed pistol, but luckily the gun-shot missed and life of the complainant was saved.

The FSL report was taken into consideration showing characteristic marks with following result:-

- (1) The firing mechanism of 7.65 mm marked as W/1 was found in working order.*
- (2) The 7.65 mm fired cartridge case marked as C/1 has been fired from 7.65 mm pistol marked as W/1 (recovered from accused Sohan @ Sonu) and not from any other firearm even of same make and bore/calibre because every firearm has got its own individual characteristic marks.*

Respondent No.2-Sohan Lal @ Sonu killed the complainant on 23.9.2015 after obtaining his pistol on superdari on 31.1.2013 i.e. during the pendency of the trial, as per the testimony of PW 7 Ruman-wife of the deceased.

In this case, complainant-Sandeep (since deceased) was running a jewellery shop and on 20.9.2012 at about 11.00 A.M. when he had gone to one Sandeep, he noticed that Sohan Lal was standing there with another person and on seeing him, Sohan Lal had pulled his gun and pointed the same towards the complainant. The complainant ran backwards and at that time, the accused had fired the gun-shot but fortunately, he missed the target i.e. the complainant. Thus, the accused had fired the gun-shot with an

intention to kill the complainant and later the cartridge was collected from the spot. The dispute between the complainant and accused was with regard to the land, which was pending and the accused was nursing a grudge against him.

I have heard learned counsel for the parties and the learned State counsel.

It is settled law that at the time of framing of charge, the Court has to be satisfied that there is a sufficient ground to presume that the accused has committed an offence and the Court is not to prejudge whether there is sufficient proof to proceed further. During the pendency of trial, the accused had committed the murder of the complainant and his brother and separate FIR No. 180 dated 23.9.2015 under Sections 302, 449 and 120-B IPC and Section 27 of the Arms Act, 1959 had been registered in which he had been convicted and sentenced to rigorous imprisonment for life till last breath.

An application under Section 311 Cr.P.C was moved to examine PW-7-Ruman (wife of the deceased), which was allowed on 4.10.2016.

It is on record that after the evidence was closed by the prosecution, statement of the accused under Section 313 Cr.P.C. was recorded. The trial Court has taken into consideration the status report vide which the prosecution had deleted Section 307 IPC without any reason, and held that a *prima facie* case under Section 307 IPC was made out against the accused and accordingly, the case was committed to the Sessions Court.

While passing the impugned order, the learned Additional Sessions Judge has drawn the conclusion that the prosecution had failed to

examine the complainant, whereas the complainant had been murdered by the accused during the pendency of trial and after moving an application under Section 311 Cr.P.C., Ruman, wife of the complainant had stepped into the witness box as PW-7.

In the present case, Section 307 IPC had been shown to be deleted without any reason in the status report. Though the investigating agency cannot be directed to proceed in a specific manner, yet there should be cogent and sound reasons to delete an offence from the FIR. The Court can even take into consideration the material other than the one produced by the prosecution while exercising the unbridled power to sift the chaff from the grain, though for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. Besides, the facts of the case clearly shows that the antecedents of the accused did not warrant any move towards deletion of the offence under Section 307 IPC.

Keeping in view the above, the present revision petition is allowed. The impugned order dated 4.8.2018 passed by learned Additional Sessions Judge, Jind, is set aside and the order dated 16.03.2017 passed by the learned Judicial Magistrate Ist Class, Jind, is upheld.

(HARNARESH SINGH GILL)
JUDGE

December 11, 2019

Parveen Kumar

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No