

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

CRR-327-2021

Date of Decision : 22.03.2021

Shiven Sharma and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Surender Saini, Advocate
for the petitioners.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This is a petition filed for setting aside the impugned order dated 25.02.2021 vide which, the Sessions Judge/trial Court has framed charges against petitioner No. 1 under Sections 392 and 397 of the IPC read with Section 25 (I-B)(B) of the Arms Act, 1959 and against petitioner No. 2 under Sections 392 and 397 of the IPC read with Section 25 (I-B)(a) of the Arms Act, 1959.

The brief facts of the case are that the FIR was registered at the instance of complainant-Deepak Relan, and it is stated that on 29.02.2020, he had gone to drop his daughter to school for her exam and his wife had also left for her school for teaching and his son namely Mohit was alone at house. After dropping her daughter, when he came back, the house was closed from inside and his son Mohit did not open the door, even after knocking and ringing the bell. On being suspicious, the complainant-father broke the door and found that his son was lying in lobby and blood was oozing out from a cut on his neck. Thereafter, Mohit was rushed to the hospital for treatment and when the complainant reached back to his house, he saw some unknown persons in his house and on seeing the complainant, they locked themselves in the bedroom.

Accordingly, the FIR was registered on the ground that the accused persons, who have entered into complainant's house with intention to commit theft, caused injuries to complainant's son Mohit. The police on registration of the FIR, started the investigation and FSL team was summoned at the spot and later on, the accused persons including petitioners Shiven Sharma and Anshuman Tandon were arrested as sufficient evidence has come against them. It is also submitted that they have joined the investigation and have also recorded their separate disclosure statements. During investigation, as per the disclosure memo of petitioner Anshuman Tandon, a country made pistol .32 bore and Rs.45,000/- was recovered from his house. Similarly, as per the disclosure of petitioner Shiven Sharma, a car bearing No.HR10AG 6919 with Rs.45,000/-, some documents and the knife used in the offence were recovered from him. Thereafter, the police submitted the *challan* and on the basis of the evidence which had come on record as per the report under Section 173 Cr.P.C., the trial Court has framed the charges by passing the impugned order.

It is argued on behalf of the petitioners that no charges are made out under Sections 392 and 397 of the IPC read with Section 25 (I-B)(B) (a) of the Arms Act, 1959.

Learned counsel for the petitioners further argues that the injuries sustained by the victim was caused by a blunt weapon and not by a sharp edged weapon and it was found to be a lacerated wound with a bleeding nose and there is no specific opinion by the doctor.

Notice of motion.

Mr. Sumit Jain, Addl. A.G., Haryana, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State.

Learned State counsel submits that this is a case of clear eyewitness account and also in pursuance of the disclosures made by the petitioners, not only the amount but the weapon of offence have been recovered.

After hearing learned counsel for the parties and considering the fact that it is a well settled principle of law as held by Hon'ble Supreme Court in ***State of Andhra Pradesh vs. Goloconda Linga Swamy and another, 2004 (3) RCR (Crl.) 831*** that at the time of framing the charge, only *prima facie* evidence is to be seen, I find no ground to interfere in the impugned order passed by the trial Court.

Accordingly, the present petition is dismissed.

22.03.2021

Waseem/Chetan

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No