

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1154 of 2021 (O&M)
Date of Decision: 07.10.2021

Preet Yadav

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Karanvir Singh Khehar, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J.

The present revision petition has been filed challenging the order dated 15.09.2021 passed by the learned Sessions Judge, Gurugram, whereby it was ordered for framing of charges against the under Sections 279, 336, 323, 325, 307, 201 of the Indian Penal Code, 1860 and Section 181 of the Motor Vehicles Act, 1988 (Amendment) 2015.

As per the FIR which was lodged on the basis of a complaint made by one Ravi Kumar Mishra son of Krishan Mishra that on 25.04.2021 he alongwith his wife Rinki were going on their motorcycle No.DL-35DR-1563 from Delhi to their native village Kherala and when they reached on jail road near Gurugram village Rathoj, then from behind a driver of Fortuner car No. HR-26CG-7810 came at a fast speed and touched their

motorcycle while passing. Upon this, the complainant said that can't car be driven with care and thereafter, the driver of Fortuner car drove his car back and with intention to kill them hit their motorcycle, whereby the wife of the complainant namely Rinki suffered serious injuries and the complainant also suffered injuries. Thereafter, driver of another private car came to them and took them to Medanta Hospital and his wife suffered a fracture in her spine and hand/leg. On 26.04.2021 they were sent from Medanta Hospital, Gurugram to Safdarjung Hospital, Delhi because they did not have money to bear the expenses of Medanta Hospital and his wife was discharged on 28.04.2021. She was facing difficulty in writing and speaking and it was thereafter that the present complaint was lodged with the police. It was informed to them by the people gathered at the place of occurrence that the Fortuner car was being driven by son of Ravinder Yadav (petitioner).

After the registration of the FIR, investigation was carried out by the Investigating Officer, arrested the accused and got the statement of complainant recorded under Section 164 Cr.P.C and thereafter, report under Section 173(2) Cr.P.C with regard to commission of offences under Sections 193, 201, 279, 307, 323, 325, 336, 506 of IPC and Section 181 of Motor Vehicles Act, 1988 was submitted before the competent Court.

At the time of considering for framing of charge, the learned Sessions Judge passed the impugned order whereby it was ordered for framing of charges against the petitioner under Sections 279, 336, 323, 325, 307, 201 of the Indian Penal Code, 1860 and Section 181 of the Motor Vehicles Act, 1988 and under Section 506 of the Indian Penal Code, 1860

against the co-accused Ravinder Yadav.

The learned Sessions Judge noted that there are very specific and categorical allegations of rash and negligent driving of Fortuner car by the petitioner-Preet Yadav and the second part of the event goes to show that a deliberate act was committed by the petitioner, who by deliberately hitting the motorcycle of the complainant inflicted simple as well as grievous injuries on the complainant and his wife and as per learned Public Prosecutor during subsequent part of the event, the injuries were caused by the petitioner with an intention to kill the complainant and his wife and in the above mentioned event the injury caused by the petitioner on the person of wife of the complainant was dangerous to life. The learned Sessions Judge observed that the facts of the instant case are very peculiar in nature and it transpires that the accident had taken place in two parts. The first part was when an accident had taken place between the motorcycle of the complainant and Fortuner car of the accused and the said act was allegedly due to rash and negligent driving of the accused and *prima facie* amounted to the offences punishable under Sections 279, 336 IPC. If the action of the accused would have come to an end immediately after the above mentioned accident, there would not have been any other offence involved in the instant case. However, the second part which immediately followed the first action of the petitioner is that, that the petitioner reversed his car and hit the motorcycle of the complainant. This was definitely a deliberate act committed by the petitioner probably with an intention to teach a lesson to the complainant and his wife and for this deliberate act the nature of injury

and the intentions of petitioner are going to be determining factor. The learned Sessions Judge further observed that *prima facie* it also constitutes an offence under Section 307 IPC on the basis of sequence of events, which has transpired that an act of reversing the car and hitting the motorcycle of the complainant was nothing but an attempt by the petitioner to kill the complainant, and while doing the above mentioned act the petitioner must be aware of the fact that his above mentioned act might have caused the death of a human being i.e. either of the complainant or his wife or of both. The learned Sessions Judge further observed that taking a holistic view of all the events which had taken place at the time of commission of offence, an offence under Section 307 IPC was *prima facie* made out. The learned Sessions Judge also observed that in the instant case as per the contents of report under Section 173(2) Cr.P.C and supporting evidence, the petitioner with an intention to destroy the evidence, which could have established his involvement in the commission of crime, got his car repaired in a hasty manner and, therefore, it amounted to an offence punishable under Section 201 IPC.

The learned counsel for the petitioner has submitted that the order passed by the learned Sessions Judge is perverse and background of the entire case was not considered by the learned Sessions Judge. He submitted that in fact the present case was planted upon the petitioner and his father, who had an enmity with the police officials. He further submitted that the father of the petitioner namely Ravinder Yadav, who is also a co-accused in the present case retired from Delhi Police and he is known to be a

RTI Activist and he pleads public cause. He has also exposed various misdeeds of the public authorities and he alongwith one other activist Sh. Harinder Dhingra had come across the statement of some immovable property of one IPS Officer who was posted at Commissioner of Police, Gurugram to the effect that the said officer had assets acquired beyond his known sources of income. The said Sh. Harinder Dhingra arranged a Press Conference on 13.04.2020 and the father of the petitioner had also joined the said Press Conference. In this way, the petitioner and his father have been targeted by the police and the present case has been planted against the petitioner and his father. He further submitted that father of the petitioner was also arrested earlier at the instance of the aforesaid Commissioner under Sections 107/151 Cr.P.C and thereafter, he was ordered to be released on 24.04.2021 and strict conditions were imposed for his release. In nutshell, the learned counsel for the petitioner has submitted that due to *mala fide* of the police, the petitioner and his father have been falsely implicated in the present case. The learned counsel for the petitioner has also relied upon two judgments of this Court in '***Ashu Gautam @ Bittu and another Versus State of Punjab***', [CRA-S-3955-SB-2014] and '***Gobind Gulati @ Gopi and others Versus State of Haryana and another***', [CRM-M-44268-2014] to contend that the charge framed under Section 307 IPC is not sustainable and the same is liable to be quashed on the basis of facts and circumstances of the case.

I have heard the learned counsel for the petitioner.

A perusal of the FIR dated 29.04.2021 would show that it has

been specifically stated by the complainant that when the Fortuner car which was being driven by the petitioner earlier touched the motorcycle of the complainant and his wife, then after the said incident, the driver of the Fortuner car again drove back his car and with an intention to kill them, it hit their motorcycle and consequently, the wife of the complainant was seriously injured. Even the complaint which was given to the SHO, Police Station Bhondsi, Gurugram by the wife of the complainant also shows that the Fortuner car driver brought his car turned around and hit their motorcycle with an intention to kill. The statement of the complainant under Section 164 Cr.P.C which has been attached alongwith the paper-book also shows that it was stated by the complainant that SUV hit deliberately because they had shouted on driver when it came out from their side and furthermore, it was stated by the complainant that they (accused) are very powerful people and he wants the safety of himself and his family members.

The arguments raised by the learned counsel for the petitioner that it was a result of *mala fide* on the part of the police authorities that the present FIR was lodged against the petitioner cannot become a ground for quashing of the impugned order passed by the learned Sessions Judge. Firstly, the entire allegations are against the Commissioner of Police who is not a party in the present case. Secondly, the arguments raised by the learned counsel for the petitioner is a matter of evidence which is to be led at the time of trial. It is a settled law that at the stage of framing of charges the Court only has to see as to whether there is any ground for proceeding against the accused or not and even the Court is not required to record any

reason as to why such charge is being framed. Furthermore, the judgments relied upon by the learned counsel for the petitioner do not have any bearing on the present case.

In ***Gobind Gulati @ Gopi's case (supra)*** this Court had quashed the complaint as well as the order passed by the JMIC under Section 156(3) Cr.P.C ordering the registration of the FIR on the ground that the dispute was civil in nature and an arbitration clause already existed between the parties. Therefore, the judgment relied upon by the learned counsel for the petitioner is distinguishable and is not applicable to the present case.

In ***Ashu Gautam @ Bittu's case (supra)*** this Court had set aside the judgment of conviction by partly allowing the appeal to the extent of setting aside the conviction under Section 307 IPC. Therefore, the aforesaid judgment is also not applicable in the present case.

The learned Sessions Judge has ordered for framing of charges against the petitioner on the basis of the facts and circumstances of the present case wherein the allegations were that the Fortuner car which was being driven by the petitioner had touched the motorcycle of the complainant and when the complainant protested against the same, he reversed the Fortuner car and again hit the motorcycle which caused serious injuries on the wife of the complainant and other injuries to the complainant. The allegations of *mala fide* against the Commissioner of Police are not to be required to be taken into consideration at the time of framing of charge nor the same are reflected in the orders passed by learned Sessions Judge

and, therefore, these allegations appear to have been raised for the first time in the present revision petition. At the time of framing of charge, the Court has to see whether there is any ground for proceeding against the accused or not. The learned Sessions Judge has directed for the framing of charge on the basis of the material available on record so far as the present case is concerned. Therefore, this Court does not find any perversity or illegality in the order passed by the learned Sessions Judge, Gurugram.

Therefore, finding no merit in the present petition, the same is hereby dismissed.

07.10.2021

rakesh

(JASGURPREET SINGH PURI)**JUDGE**

Whether speaking
Whether reportable

: Yes/No
: Yes/No