

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

112

**CRR-1638-2021 (O&M)**  
Date of decision : 07.12.2021

Tarsem Lal

... Petitioner

Versus

State of Punjab and others

.. Respondents

**CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mohd. Yousaf, Advocate for the petitioner.

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**Anupinder Singh Grewal, J. (Oral)**

The petitioner has challenged the order dated 02.11.2021 whereby his application under Section 216 Cr.P.C. for framing of alternative charge under Section 302 IPC has been dismissed.

Learned counsel for the petitioner contends that in the FIR itself, it was mentioned that the deceased had been forcibly hung with a wooden girder, therefore, the application for addition of alternative charge under Section 302 IPC should have been allowed. He has relied upon the judgment of the Supreme Court in the case of **State of Rajasthan versus Thakur Singh, 2014(12) SCC 211** and the judgment passed the Coordinate Bench in the case of **Amrik Singh versus State of Punjab, 2010(8) RCR (Criminal) 349**.

Heard.

The postmortem report has indicated the cause of death in the case as asphyxia due to hanging. The injuries were antemortem. There is no other injury on the person of the deceased and therefore, the order declining addition of alternative charge under Section 302 IPC cannot be said to suffer from any manifest illegality. The petitioner is the brother-in-law of the deceased and he was admittedly not present at the place of occurrence and had been informed

by some other relative about the incident. The trial Court has framed charges under Section 306 IPC against respondent No.2 who is the wife of the deceased and respondent No.3.

The judgment of the Supreme Court in the case of **State of Rajasthan versus Thakur Singh** (supra) is distinguishable on facts from the instant case and is not applicable inasmuch as the cause of death in that case was strangulation and in such circumstances, the Court had ordered that the alternative charge under Section 302 IPC should be framed.

The judgment passed by the Coordinate Bench in the case of **Amrik Singh versus State of Punjab** (supra) pertains to a case of framing of charge under Section 326 IPC. In that case, the prosecution had moved the application for amendment of charge at a belated stage although as per the medical opinion, the injury was found to be grievous in nature and there was fracture of the middle phalanx. This Court had directed the trial Court to pass a fresh order for framing of alternative charge under Section 326 IPC as the injury had been caused by a sharp edged weapon.

In the instant case, the medical opinion is consistent with the deceased having hung himself. There are no other injuries on the person of the deceased to warrant framing of charge under Section 302 IPC.

In the light of the material available on record, I do not find any illegality in the impugned order.

Consequently, the petition along with pending application stands dismissed.

(ANUPINDER SINGH GREWAL)  
JUDGE

December 07, 2021  
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I attest to the accuracy and  
integrity of this document

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |