

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-583-2020 (O&M)

Date of decision : 17.11.2022

Gaji Khan

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. Bhupender Singh, Addl.A.G., Haryana.

DEEPAK MANCHANDA, J.

By way of present revision petition, petitioner has challenged the order dated 23.11.2019 passed by Additional Sessions Judge, Faridabad whereby charges under Sections 148, 149, 324, 325, 326, 365, 307 and 506 Indian Penal Code, 1860 and Sections 25, 54 and 59 Arms Act, 1959 have been framed against the petitioner.

The facts in brief leading to the present revision petition are that complainant, namely, Shiv Taj got registered FIR No.0302 dated 03.07.2019 wherein it was alleged that on 03.07.2019, when complainant was supplying milk at 27 feet road, Dabua Colony, then petitioner-Gaji Khan along with his elder brother-Amit Baisla, Sunder and Rohit came there and asked him to reach at his house as the complainant has raised the matter of his liquor, however, when complainant refused, the petitioner along with the other accused persons, dragged the complainant towards his house, where Vishal, parents and uncle of Gaji Khan, Bunta, Thekha, Sonu @ Khatra and mother of Vicky, who were already present armed with knives, iron rods and lathies. Uncle of petitioner was armed with pistol. Thereafter, petitioner-Gaji Khan gave a knife blow on

the neck of the complainant in order to murder him, but when he lifted his right hand in order to save himself, then he got injuries on his little finger. After that, elder brother of Gaji Khan gave a iron rod blow on his right leg and his father also gave danda blow on his left leg, due to which he fell down. On these broad allegations, present FIR was registered.

Learned counsel for the petitioner contends that there are no allegations against the petitioner that he inflicted injury on the vital part of the complainant and the only allegations against petitioner is that he gave a knife blow upon the neck of the complainant, but when complainant lifted his right hand in order to save himself, he sustained grievous injuries on his little finger and the said allegation is not supported with any evidence. According to learned counsel, from the perusal of the FIR, no case under Section 307 IPC is made out against the petitioner. He further contends that all other offences are triable by Magistrate in case charge under Section 307 IPC is not attributed to the petitioner. He further submits that Additional Sessions Judge, Faridabad while framing charges neither appreciated the evidence nor gave any findings in the impugned order that how Section 307 IPC is attracted against the petitioner, therefore, he prays that charge sheet/order dated 23.11.2019 be set aside qua the petitioner.

On the other hand, learned State counsel submits that the present petitioner actively participated in the crime, who was the main accused and was armed with knife with intention to commit murder of complainant and had given a knife blow on complainant's neck, however, to save himself, the knife had hit on the right hand of the complainant. He further submits that intention and motive of the petitioner was apparent, who tried to kill the complainant by

giving a knife blow on his neck. He further submits that the trial Court has rightly framed the charges against the petitioner keeping in view his role in the alleged crime. He prays for dismissal of the petition.

After hearing learned counsel for the parties, this Court finds that the Additional Sessions Judge, Faridabad while framing the charges against the petitioner has specifically observed that as per the investigation report, the accused gave grievous injuries with sharp edged weapon on the finger of the complainant, therefore, Section 326 IPC was subsequently added. Further, the petitioner actively participated in the crime, who was armed with knife with an intention to commit complainant’s murder, however, the knife had hit on the right hand of the complainant. It has further been observed that Section 307 IPC shall not only be attracted if the injuries are dangerous to life and also can be attracted if the same are caused with an intention to commit murder. The statement of complainant coupled with the documents placed on the file *prima facie* shows that intention of the petitioner was to commit complainant’s murder, therefore, he had made an attempt to cause injuries on his neck by giving him knife blows.

Keeping in view the aforesaid facts and going through the order dated 23.11.2019, no interference is warranted by this Court as the impugned order has been rightly passed by the trial Court.

Accordingly, present revision petition is dismissed.

17.11.2022

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Whether speaking/reasoned :
Whether Reportable :

(DEEPAK MANCHANDA)
JUDGE

Yes	No
Yes	No