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

CRWP-2545-2022

Date of decision: 22.03.2022

OM PARKASH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ramesh Kumar Dhiman, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No.503 of 21.12.2021, registered at Police Station Madhuban, District Karnal, offences constituted under Sections 279, 304-A, 338 of IPC, are embodied.

2. The first information report was lodged at the instance of one Parveen Kumar son of Om Parkash. It is stated by the learned State counsel, that the informant was available at the site of occurrence, and, that he was an ocular witness to the relevant offence hence happening at the crime site. He also submits, that the petitioner herein namely one Om Parkash, who is the father of the complainant, was not an ocular witness to the occurrence. The learned counsel for the petitioner yet argues, that the narrations made with respect to the penal occurrence which happened at the crime site, and, as unfolded in Annexure P-2, are incorrect, and, false, and, that an offence rather under Section 302 IPC is made out against the accused. The afore made prayer is apparently in rife contradiction with the narrations carried in the FIR, which became lodged at

the instance of the son of the petitioner, and, who is an ocular witness to the incriminatory occurrence which happened at the crime site. Moreover, the legal effect thereof is to be considered at the stage when trial opens against the accused before the learned trial Judge concerned.

3. Nonetheless, if yet the investigating officer concerned, discovers during, the course of investigations, that there is credible incriminatory evidence for an offence under Section 302 IPC rather being added in the FIR (supra), thereupon it is open to him to add the afore offence in the FIR concerned. Moreover, if above credible evidence, does not emerge, thereupon, it is open to the investigating officer concerned, to file an affirmative report in consonance with the penal provisions as are carried in the FIR (supra).

4. Be that as it may, if the investigating officer concerned, suppresses credible evidence with respect to the adding of an offence carried under Section 302 IPC, and, the afore omissions are willful and deliberate or are a sequel of slipshod investigations, being made by the investigating officer concerned, in the FIR (supra), thereupon, it is open to the petitioner to file an application, through the aegis of the learned Police Prosecutor concerned, before the learned trial Magistrate concerned, and, seek therein relief, for further investigations being made, in respect of the above by the investigating officer concerned, other than the officer who was earlier conducted the investigations, and, that too by an officer not below the rank of Deputy Superintendent of Police.

5. Disposed of with afore observations.

(SURESHWAR THAKUR)
JUDGE

22.03.2022

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Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No