

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

**CRR-2175-2018(O&M)
Date of Decision:02.06.2022**

Ratto and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by:- Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Padam Kant Dwivedi, Advocate
for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

KARAMJIT SINGH, J.

The petitioners have filed the present revision petition against the order dated 18.05.2018 passed by the Court of Additional Sessions Judge, Rupnagar, vide which the petitioners have been charged under Sections 148, 307, 353, 186, 323 read with Section 149 IPC.

The Sr. Counsel for the petitioners contended that the petitioners are totally innocent and have been falsely implicated in the present case at the instance of Jastinder Singh Block Development and Panchayat Officer, who is complainant in this case. The Sr. Counsel further contends that no such incident as alleged by the complainant had ever taken

place. The Sr. Counsel further contends that as per allegations appearing in the FIR, the petitioners started pelting stones on the government officials, meaning thereby that the petitioners were not armed with any weapons. The Sr. Counsel for the petitioner further contended that there are also allegations in the FIR that one of the accused namely Sohan Singh had thrown petrol bomb (bottle filled with petrol which was set on fire) towards the boat in which the complainant and other government officials were going. The Sr. Counsel further contends that allegation of use of petrol bomb by the petitioners was considered by the coordinate Bench of this Court in its order dated 16.01.2018, Annexure P-10. While dealing with the said issue, the Court observed that no such bottle was recovered during the investigation of the case. The Sr. Counsel for the petitioners further contended that there is nothing on record to establish that any one sustained burn injuries due to throwing of alleged petrol bomb and further the prosecution is unable to show that any damage was caused to the boat due to hurling of the alleged petrol bomb. The Sr. Counsel for the petitioner further contended that as per the MLR of Jastinder Singh, the injury found on his person was declared simple in nature and was caused with blunt weapon. The Sr. Counsel for the petitioner further contended that in these circumstances, the impugned order dated 18.05.2018, whereby the trial Court framed charges under Sections 307, 353, 186, 323 read with Section 149 IPC and under Section 148 IPC is liable to be set aside.

The Sr. Counsel for the petitioner further contended that earlier also similar orders passed by the trial Court to frame charges against the petitioners were challenged on two occasions. The Sr. Counsel further

contended that first time when the charges were ordered to be framed against the petitioner, they filed Criminal Revision No.1963 of 2012 and the same was allowed vide order dated 24.01.2013, Annexure P-7, by this Court and the matter was remanded back to the trial Court with a direction to pass fresh order after rehearing the petitioners. Thereafter, the trial Court passed fresh order dated 10.01.2014, whereby petitioners were again charged under Sections 307, 323, 353, 186 read with Section 149 IPC. The Sr. Counsel further contends that the said order was challenged vide CRR No.382 of 2014 and the same was allowed vide order dated 16.01.2018 (P-10) and the matter was again remanded back to the trial Court to pass a fresh order in accordance with law.

The Sr. Counsel for the petitioner further contended that thereafter the trial Court passed impugned order dated 18.05.2018, whereby charges were again framed under Section 307, 353, 186, 323 read with Section 149 IPC and under Section 148 IPC. The Sr. Counsel further contended that while passing the aforesaid order the trial Court ignored the earlier orders passed by this Court i.e. Annexures P-7 and P-10. The Sr. Counsel further contended that as has been argued earlier, the trial Court also ignored the fact that Jastinder Singh-complainant sustained only one simple injury that too with blunt weapon. The Sr. Counsel while concluding his arguments submitted that the impugned order is totally illegal and thus, deserves to be set aside.

On the other hand, the State counsel submitted that there is no illegality in the impugned order. That as per the allegations appearing on the record, the government officials including the complainant had gone to take

possession of the land belonging to Gram Panchayat, village Chonta in compliance with the warrant of possession issued by the Court concerned in this regard. That the said land was across the river and as such, all the aforesaid government officials were going in a boat to reach the spot and when they reached near the other side of the river, they were attacked by the petitioners while they were still sitting in the boat. That the aforesaid government officials were attacked with stones and one of the accused namely Sohan Singh hurled petrol bomb towards the boat but it fell in the river. Due to stone pelting one stone hit on the right side of forehead of complainant and other government officials also sustained injuries due to aforesaid stone pelting.

The State counsel further submitted that all the petitioners constituted unlawful assembly with an intention to cause bodily harm sufficient to cause death, to the complainant and other government officials. The State counsel further submitted that the intention of the petitioners was very clear as one of them also used petrol bomb to cause harm to the government officials who were travelling in a boat. The State counsel further contended in the given circumstances, for the purpose of framing charge under Section 307 IPC, intention is of paramount importance, irrespective of the nature of the injuries sustained by the victims. The State counsel further submitted that thus, the trial Court rightly held that prima facie case is made out against the petitioners to frame charges under Sections 307, 353, 186, 323 read with Section 149 IPC and Section 148 IPC. The State counsel in the end submitted that the present revision petition deserves to be dismissed.

I have considered the submissions made by the counsel for the parties.

The FIR in this case was registered on 08.08.2011. After completion of investigation, the police presented challan against the petitioners and the trial Court framed charges under Sections 307, 332, 353, 186, 148 and 149 IPC against them and the petitioners challenged the said order by filing CRR No.1963 of 2012 before this Court. The same was allowed vide order dated 24.1.2013, Annexure P-7 and the operative part of the same reads as follow:-

“..Counsel for the petitioners contends that detailed submissions were made at the time of framing of charges that no offence as alleged was made out against the petitioners. Since the trial Court has not given any reason, this Court is in no position to understand as to how offence under Section 307 IPC or for that matter offences under other sections are made out. There is nothing on record to show as to what has weighed with the Court to frame the charges as alleged. It would, therefore, be appropriate to remand this case back to the Addl. Sessions Judge to rehear the petitioners for passing a reasoned order as to how such charges are made out against the petitioners. The charges as framed, however, are quashed. The Trial Court would be at liberty to frame the fresh charges, if any offence is made out, from the facts as alleged but strictly in accordance with law.

The revision petitions are accordingly disposed of.”

After the passing of aforesaid order, the trial Court passed fresh order dated 01.01.2014 to frame charges against the petitioners under Sections 307, 332, 353, 186 read with Section 149 IPC and under Section 148 IPC. Being aggrieved, the petitioners filed CRR No.382 of 2014 before this Court and the same was allowed, vide order dated 16.01.2018, Annexure P-10. The operative part of the same is reproduced herein below:-

“16.I have considered the submissions made by learned counsel for the parties.

17. Perusal of the order dated 12.08.2014 would show that the trial Court instead of complying with the order dated 24.01.2013 passed by the Co-ordinate Bench of this Court in CRR Nos.1963 and 2319 of 2012 for giving prima facie reasons chargesheeting the petitioner, gave the reason that only prima facie case is to be seen without making any opinion. The trial Court has not referred to the requirement of the aforesaid order dated 24.01.2013 passed on earlier occasion. Only incriminating fact was recorded that Manjit Kaur and Dalip Kaur while standing on the other side of the bank of the canal along with ten unidentified persons also attacked them. Sohan Singh hurled a bottle filled with petrol after setting it on fire on the boat of the complainant. No such bottle has been recovered and the Court has not given any prima facie observations with regard to the alleged injuries on the side of the complainant except to say that no meticulous opinion can be formed at this stage. It is true that

at the time of framing of charges, meticulous examination of the allegations and counter allegations is not permissible, but the Court is required to observe the prima facie view of the matter so as to attract the offences in question. Precisely the order dated 24.01.2013 was in the aforesaid context obligating the trial Court to at least weigh the allegations on prima facie note for framing charges against the petitioners and the case was remanded. Perusal of the order dated 12.08.2014 would show that the same is not in consonance with the order dated 24.01.2013 passed on earlier occasion by the Co-ordinate Bench of this Court.

18. *In view of aforesaid, I am of the view that the order framing charge needs to be revisited by the trial Court in view of order dated 24.01.2013 passed in CRR Nos.1963 and 2319 of 2012. Consequently, the order dated 12.08.2014 passed by the Addl. Sessions Judge, Fast Track Court, Ropar is quashed. Petition is allowed and the trial Court is directed to pass a fresh order in accordance with law.”*

The Hon’ble Apex Court in the case of *State of Maharashtra Vs. Balram Bama Patil (1983) 2 SCC 28* has held that it is not necessary that a bodily injury sufficient under normal circumstances to cause death should have been inflicted. The Court has to see is whether the act, irrespective of its result, was done with an intention or knowledge and under circumstances mentioned in Section 307 IPC.

At the same time, the Trial Court is not a mere post office or mouth piece to frame the charges at the behest of prosecution but has to exercise its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. This however, does not mean the trial Court should make a roving inquiry into pros and cons of the matter and weigh the evidence as if it was conducting a trial, as has been held by the *Hon'ble Supreme Court in Union of India Vs. Prafulla Kumar Samal 1979 AIR 366 (SC)*.

Undoubtedly, the intention of the party has to be gathered from the facts and circumstances of the case. In the instant case, the petitioners (accused persons) were not armed with any weapon and they only started pelting stones and one such stone hit on the head of complainant Jastinder Singh who at that time was posted as Block Development and Panchayat Officer. As the petitioners were not armed with fire-arms or deadly weapons, and they simply started pelting stones, it prima facie shows that they were having no intention to kill any person. Moreover, from the perusal of the MLR of Jastinder Singh, whose copy (Annexure P-13) is available on record, the following injury was found on his person:-

“1. One lacerated wound 4x1cm on right side scalp, 10cm from right ear.”

The said injury was declared as simple in nature being caused with blunt weapon.

The medico legal reports of other injured persons are not placed on record. Thus, prima facie making it clear that only complainant-Jastinder Singh sustained simple injury that too caused with blunt weapon. Nothing is

available on record regarding use of petrol bomb as has been observed by the Coordinate Bench of this Court while passing order, Annexure P-10.

For the foregoing reasons, this Court is of the view that the impugned order dated 18.05.2018 passed by the learned Additional Sessions Judge, Rupnagar, regarding framing of charges requires to be reconsidered. Consequently, the impugned order dated 18.05.2018 is quashed. The trial Court is directed to rehear both the parties and to pass fresh order regarding framing of charges within one month from the date of receipt of copy of this order, strictly in accordance with law.

The present revision petition stands disposed of accordingly, so also the pending miscellaneous application(s), if any.

02.06.2022
P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No