

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

107

(Through Video Conferencing)

CRR-1011-2021 (O&M)

Date of decision: 07.02.2022

Paramjit Singh @ Vidhi Chand

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Inderjit Sharma, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 26.02.2019 passed by the trial Court at Ludhiana in Criminal Trial bearing CNR No.PBLD01-027715-2017, CIS No.SC/931/2017 titled as 'State Vs. Paramjit Singh @ Vidhi Chand', arising out of FIR No.175 dated 24.12.2016 registered under Section 306 IPC at Police Station Machiwara Sahib, vide which on an application moved by the prosecution for amending of the charge under Section 306 IPC to one under Section 302 IPC was allowed and alternative charge under Section 302 IPC was framed vide charge-sheet dated 26.02.2019.

Learned counsel for the petitioner inter alia contends that the trial Court erroneously allowed the application for amendment of charge without appreciating that it had been moved at a highly belated stage and that too at the time of recording of prosecution evidence. Learned counsel further submits that there was no material on record to support the allegations of murder. It was submitted that the complainant Balwant Kaur while stepping into the witness box as PW-1 during her deposition stated that her daughter had been murdered however, what

the trial Court failed to appreciate was that at the time of registration of the FIR, no such allegation had been levelled and the only allegation levelled was of the petitioner-accused subjecting the deceased to physical and mental harassment which led to the deceased committing suicide.

I have heard learned counsel for the petitioner and perused the material placed on record including the impugned order.

It would be apposite to reproduce Sections 216 and 221 Cr.P.C. which read thus:-

“216. Court may alter charge.

(1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

221. Where it is doubtful what offence has been committed.

(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some

one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub- section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.”

The submissions made by learned counsel for the petitioner that the impugned order vide which the charges were amended had been passed at a highly belated stage is devoid of any merit. A bare reading of Section 216 Cr.P.C. which has been reproduced hereinabove, explicitly confers jurisdiction on the Courts to alter or add to any charge framed earlier at any time before the judgment is pronounced. The trial Court on consideration of broad probabilities and after considering the material and other evidence including the evidence which may have been adduced during trial, if is satisfied that any alteration or addition, of charge is necessitated, can in the facts and circumstances of a case add or alter any charge which may have been framed earlier. Still further, Section 221 Cr.P.C. which also stands reproduced hereinabove clearly envisages that if there is some doubt as to which of the several offences have been committed then in the facts and circumstances of a particular case, it would be open for the trial Court to frame an alternative charge.

Adverting to the case in hand, the complainant while stepping into the witness box as PW-1 reiterated all the allegations levelled by her in the FIR in question with respect to acute harassment meted out to her deceased daughter by the accused. In addition, she also deposed that her daughter had been murdered by the accused as there were visible injuries on her abdomen and shoulder.

No doubt, the charges were initially indeed framed under Section 306 IPC, however, during trial, more particularly after recording of the evidence of the complainant, the Court could not be said to have traveled beyond its jurisdiction while adding an alternate charge under Section 302 IPC. It may be reiterated that the prime object of framing of a charge is to enable the accused to have a clear idea of what he is being tried for, by the Court and the essential facts he would have to address during trial. The Court while framing charges is to merely satisfy itself after sifting and weighing the material produced before it as to whether a prima facie case is made out against the accused or not. The Court is not expected to enter into the realm of appreciation of evidence at the stage of framing of charges and also whether the prosecution would be successful in bringing home the guilt of the accused.

Needless to add in case during trial and on appreciation of evidence led, the trial Court does not find commission of an offence under Section 302 IPC it would record a finding accordingly.

As a sequel to the above, this Court is not inclined to invoke its revisional jurisdiction under Section 401 Cr.P.C. and to set aside the impugned order.

Dismissed.

Since the main petition is dismissed the application for condonation of delay stands dismissed accordingly.

07.02.2022

(MANJARI NEHRU KAUL)

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JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No