

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

110

CRR-623-2023 (O&M)

Date of decision: 20.03.2023

Rani and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Nikhil Kumar, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-10639-2023

For the reasons mentioned in the application, the same is allowed and delay of 84 days in filing the revision petition is condoned.

CRR-623-2023

1. The instant revision petition has been filed to impugn the order dated 06.09.2022 passed by learned Additional Sessions Judge, Karnal, vide which charges under Sections 302 and 34 of the IPC were framed against the petitioners (Annexure P-1).

2. Learned counsel for the petitioners *inter alia* has contended that the Trial Court while passing the impugned order gravely erred in ignoring the fact that even if the material on record is taken to be a gospel truth, no offence under Section 302 of the IPC is made out against the petitioners. While inviting the attention of this Court to the allegations levelled in the FIR, learned counsel has argued that as per allegations, on the fateful day, all the 03 accused including the petitioners, who were neighbours of the complainant party,

physically assaulted the complainant's father (hereinafter referred to as 'the deceased') and petitioner No.1 hit him with her tiffin box. Thereafter, petitioner No.2 pushed the deceased to the ground as a result of which he received an injury on his head which subsequently proved to be fatal. Learned counsel has still further drawn the attention of this Court to the post mortem report (hereinafter referred to as 'PMR') (Annexure P-3) to contend that only two injuries were suffered by the deceased out of which one was just an abrasion on his left fore arm. Learned counsel has also further invited the attention of this Court to the opinion of the doctor (Annexure P-5) wherein he had stated that the dimensions of the tiffin box and the injuries mentioned in the PMR *“does not match & there is no/least possibility of sustaining the injury mentioned in the PMR. The same tiffin duly signed by me on a white tape stiked on the tiffin box and repacked in same pulanda & sealed.XXXX”* Learned counsel has thus argued with vehemence, that in the absence of any direct or overt act much less any intention attributed to the petitioners, the ingredients to invite the mischief of an offence under Section 302 of the IPC were not attracted and hence the impugned order vide which charges had been framed against the petitioners under Section 302/34 of the IPC deserved to be set aside.

3. I have heard learned counsel and perused the relevant material on record.

4. Before proceeding further, it would be relevant to reproduce the allegations levelled in the FIR which reads as under:-

“To the SHO Sir, P.S Nissing, Karnal, respected Sir it is submitted that I am Davinder son of Kashminder Singh caste Chmaar resident of village Dachar today on dated :

22.03.2022 around 8:30 AM, Surrender s/o Raghbir, Arvind S/o Raghbir and Rani W/o Raghbir all resident of Dachar P.S Nissing district Karnal who all are our neighbours today they intentionally gave beatings to my father during which Rani gave a blow with Tiffin to my father, Surrender s/o Raghbir, Arvind S/o Raghbir pushed my father due to which my father fell down and got an injury on his head. They gave beatings to my father and killed my father. I brought my father to the civil hospital where Doctor declared him dead. Please take strict legal action against the aforesaid accused namely Surrender s/o Raghbir, Arvind S/o Raghbir and Rani W/o Raghbir. SD/- Davinder S/o Kashmir”

5. A perusal of the contents of the FIR reveals that the petitioners and the complainant are neighbours. As per the allegations of the prosecution, the deceased was first assaulted by all the accused and then hit with a tiffin box by petitioner No.1 Rani. Thereafter, the deceased was pushed by petitioner No.2 Surrender and co-accused Arvind, as a result of which he fell down on the ground and received injury on his head (*A reddish contusion 4 x 1.5cm in the middle of occipital region 10cm each from right and left ear and 10cm from the mid line diagonally placed. On dissection fracture occipital bone (linear fracture horizontally placed) seen. On further dissection hematoma seen. (INJURY NO.1)*), which as per PMR proved to be fatal. Prima face from a perusal of the allegations levelled it does come across that all the accused while acting conjointly had attacked the deceased, as a result of which he received fatal injuries.

6. No doubt the learned counsel has placed heavy reliance upon the medical evidence annexed by him including the PMR of the deceased, however, at the stage of framing of charges, a Court cannot enter into the realm of appreciating the merits or demerits of the case of

the prosecution, or even the defence of the accused. At the time of framing of charges, the Court is just to confine itself to the evaluation of the material and documents on record, with the sole purpose to assess whether a prima facie case is made out or not, for attracting the mischief of the alleged offences. The Court is certainly not expected to, and should not apply the standard as to whether the prosecution would succeed in proving the case against the accused or not, during trial, because the prime objective of framing a charge(s) is to just enable an accused to have a clear idea as to for what he is being tried for, by the Court, and still further the essential facts that he would have to meet during the course of trial.

7. In the case in hand, no doubt it has been vehemently also argued by the learned counsel for the petitioners that there was no intention on the part of the accused to commit the crime in question, however, this yet again would be a matter of trial and this Court cannot appreciate the adequacy or otherwise of the evidence with respect to the intention of the accused to commit the crime in question, at this stage. This Court cannot even evaluate the medical evidence for the purpose of determining as to whether a charge under Section 302 of the IPC is made out against the petitioners or not. Even otherwise, assuming for the sake of arguments that the ingredients of Section 302 of the IPC are not made out, still, after the parties have led their respective evidence, there is no bar to an accused being convicted for a minor offence by the Trial Court, even if not charged for it, as per the provisions of Section 222(2) of the Cr.P.C.

8. It needs to be reiterated that the scope of interference of

this Court even under its revisional jurisdiction, with an order of framing of charges is extremely limited. The power to quash charges framed by the Trial Court is an exception and not the rule.

9. Accordingly, finding no merit in the instant revision petition, the same is hereby dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

20.03.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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