

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

246

CRR-567-2022 (O&M)

Date of decision: 04.10.2023

Sukhwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Inderpreet Singh Cooner, Advocate
for the petitioner.

Mr. Pankaj Khullar, AAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant revision petition has been filed to impugn the order dated 15.02.2022 vide which the learned Additional Sessions Judge, Patiala dismissed an application filed under Section 216 of the Cr.P.C. by the petitioner for discharging him of the charges framed against him under Sections 394/307/326/379/411/34 of the IPC in case arising out of the FIR No.30 dated 30.04.2021 under Sections 307, 394, 511, 34, 379 and 326 of the IPC registered at Police Station Kheri Gandian, District Patiala.

2. Learned counsel for the petitioner inter alia contends that false implication of the petitioner in the case in hand is evident from the fact that the FIR in question was registered against unknown persons and there was no cogent evidence collected by the investigating agency to link him with the crime in question. While drawing the attention of this Court to the FIR which has been annexed as Annexure P-1, learned counsel has submitted that allegedly on 23.04.2021, three unknown

persons came on a motorcycle to the shop of the complainant and attempted to snatch a bag from him which had cash inside it. However, when the complainant resisted, a fist fight broke out between him and the alleged assailants. One of the assailants took out a sword and attacked the complainant on his head and on his hand. All the three accused thereafter managed to flee away from the spot. Learned counsel has further submitted that except for bald allegations that the complainant had been inflicted injuries on his head with a sword, there was no medical opinion of the doctor that the injuries so received by the complainant, were even dangerous to life. Learned counsel has still further submitted that even otherwise the basic ingredients i.e. intention and knowledge, to constitute an offence under Section 307 of the IPC; is clearly amiss in the case in hand and assuming for the sake of arguments, though not conceded, that the petitioner along with co-accused had indeed gone to the shop of the complainant and participated in the crime in question, the intention was only to snatch bag of the complainant and certainly not to inflict any injury much less an injury with an intention to cause the death of the complainant. Thus, in the absence of any specific medical opinion on record qua the nature of injuries, the Trial Court had erred in framing charge under Section 307 of the IPC against the petitioner for which the impugned order deserved to be set aside. In the alternative, a prayer has been made to modify the order and charge the petitioner only under Section 379/411 of the IPC.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has

submitted that the impugned order did not warrant any interference particularly in the manner in which the crime in question was carried out and the nature of lethal weapons which the accused were carrying at the time of relevant occurrence. It has been further urged that even in the absence of any medical opinion of doctor an accused could still be charged under Section 307 of the IPC.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The primary objective of framing charges in a criminal case is to provide the accused with clarity with respect to the accusations against him. When charges are framed, the accused should understand precisely what he is being tried for and the essential facts/allegations, he would need to address during trial. At the time of framing of charges, the role of a Court is thus, restricted to examining the material and documents which have been placed on record by the prosecution so as to determine whether a prima facie case against him, based on the ingredients of the alleged offence, is even made out or not. In other words, the Court is just to assess whether there is enough evidence to proceed with the trial. The veracity or truthfulness of the material and evidence placed on record by the prosecution cannot be delved into by the Court while framing charges as evaluation of the material would take place when both the parties lead their respective evidence during trial. Hence, focus at the time of framing of charges is on the existence of a prima facie case rather than the ultimate truth of the allegations levelled.

6. Coming to the case in hand, though it has been vehemently

argued and asserted by the learned counsel for the petitioner that offence of Section 307 of the IPC is not made out against the petitioner as there was no medical opinion qua the nature of injuries, however, this Court does not find any merit in those submissions. It needs to be emphasized that to invite the mischief of an offence under Section 307 of the IPC, it is certainly not one of the requisites that there must be infliction of bodily harm capable of causing death. Injury inflicted upon the victim need not even be directly lethal under ordinary circumstances. Several factors, such as the type of weapon used, the manner in which it was employed, the motive behind the crime, the severity of the injury and the seat of injury are the relevant factors to be considered to discern the intention of the accused. In short, Section 307 of the IPC hinges on establishing the intention of the accused or knowledge through an evaluation of all the surrounding circumstances, not solely reliant on the final outcome or the severity of the inflicted injury.

7. As per the case of the prosecution, the petitioner along with accused came to the shop of the complainant armed with a lethal weapon like a sword. After unsuccessfully attempting to snatch the laptop and bag containing cash, of the complainant, when resistance was put up by the latter, the accused did not hesitate to use their weapon and inflict two injuries, one on his head and the other on his hand. The contention of the learned counsel for the petitioner that he was innocent and falsely implicated in the instant case would be tested during trial.

8. As a sequel to the above discussion, this Court does not

find any merit in the instant petition which is accordingly dismissed.

9. 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.

04.10.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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