

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

124

CRM-M-25948-2023

Date of Decision : 22.05.2023

Rajender

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Manjeet Singh, Advocate
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The petitioner though instant petition under Section 482 Cr.P.C. is seeking transfer of investigation of FIR No.30 dated 12.03.2023 registered at Police Station Satnali, District Mahendergarh, under Sections 279, 304-A, 337, 354, 354-A of IPC.

Learned counsel for the petitioner *inter alia* contends that initially the FIR was registered under Section 304-A of IPC apart from other sections of IPC, however, Investigating Officer during the course of investigation has omitted section 304-A of IPC and added Section 304 of IPC whereas offence is made out under Section 302 of IPC.

Learned State counsel, who is present in Court on advance notice, on instructions from SI Ram Lakhan, submits that the matter is under investigation and appropriate Sections of IPC would be invoked if it is found that offence of murder punishable under Section 302 of IPC is made

out. She further submits that the police has not still filed *challan* and it would be filed after conducting thorough investigation. The petitioner is at liberty to furnish evidence in support of his contention.

I have heard the arguments of learned counsel for the parties and perused the record.

The Investigating Officer has swapped Section 304-A IPC with Section 304 IPC. As per petitioner, Section 302 of IPC should be invoked in the FIR. The investigation is at nascent stage and the Investigating Officer may add Section 302 IPC if during the course of investigation he finds that offence of murder punishable under Section 302 of IPC is made out. The Investigating Officer may present *challan* under Section 302 of IPC if he finds that offence under Section 302 of IPC is made out. The trial Court is not bound by Sections invoked by Investigating Officer in its report under Section 173 Cr.P.C. The trial Court is duty bound to apply its mind while framing charges and trial Court can frame charge under Section 302 of IPC apart from other Sections of IPC if it finds that offence under Section 302 is mad out.

In view of these facts, circumstances and remedies available in law, it is not just and appropriate stage to interfere invoking extraordinary jurisdiction of this Court. The petitioner is at liberty to move an appropriate application at appropriate stage.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.05.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>