

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

CRR-2898-2023

Date of decision: 18.12.2023

Nitin Bansal and another

....Petitioners

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Hundal, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The petitioners have approached this Court by filing the present revision petition seeking setting aside of impugned order dated 25.10.2023 vide which the application filed by the prosecution under Section 216 Cr.P.C. was allowed and the charges under Section 306 of IPC have been framed against the petitioner.

Learned counsel for the petitioner *inter alia* contends that perusal of the material available on record clearly indicates that no offence under Section 306 of IPC is made out. The ingredients of instigation which are essential for framing charges under Section 306 of IPC within the meaning of abetment as described under Section 107 of IPC are clearly missing.

Learned counsel further submits that the complainant while deposing before the trial Court has made material improvements. The Investigating Agency after conclusion of the investigation has not filed the final report for the offence under Section 306 of IPC. The learned trial Court

has misread the material available on record and clearly fell into an error by framing charges under Section 306 of IPC. He further relies upon the judgments of the Hon'ble Supreme Court passed in 'Gurcharan Singh Vs. The State of Punjab' 2020 Cri. L.R. (SC) 954, 'Sonti Rama Krishna Vs. Sonti Shanti Sree' 2009 AIR (Supreme Court) 923 and 'Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh' 2022 (2) R.C.R. (Criminal) 687 for setting aside the conviction.

Having heard learned counsel for the petitioners, this Court finds no merit in the arguments advanced by learned counsel for the petitioners. It is a trite law that at the time of framing of charges, the probative value of material available on record is not to be seen only the *prima facie* view is to be seen. The law on the issue with regard to the nature and degree of evaluation of the evidence presented by the Investigating Agency before the trial Court at the time of framing of charge is well settled. The trial Court at this stage is only to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Sections 227/239/240 of Cr.P.C., the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel truth. The nature and degree of evaluation at this stage is limited to determine whether a *prima facie* case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can

CRR-2898-2023

-3-

only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Sections 227/239/240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The trial Court cannot consider the probable defence of the accused in the case at this stage.

The Hon’ble Supreme Court has in extenso laid down the principles for the purpose of framing of charges in *P.Vijayan Vs. State of Kerala (2010) SCC 398*. Recently, the Hon’ble Supreme Court examined the issue involved in the present case in *State through Deputy Superintendent of Police Vs. R.Soundirarasu etc. 2023 (2) RCR Criminal 206* where a two Judge Bench, speaking through Justice J.B. Pardiwala, concluded that the primary consideration at this stage of framing of charges is the test of existence of a prima facie case and the probative value of the material available on record is not to be gone into.

The present petition is dismissed accordingly.

(HARPREET SINGH BRAR)
JUDGE

18.12.2023
Neha

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