

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

111

CRR-891-2023(O&M)
DATE OF DECISION: 19.03.2024

Malkit Kaur

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM HON’BLE MR. JUSTICE KULDEEP TIWARI

Present

Mr.L.S.Mann, Advocate,
for the petitioner.

Mr.Pradeep Bajaj, DAG, Punjab
assisted by ASI Jagjeet Singh.

KULDEEP TIWARI, J (ORAL)

1. The instant revision petition is filed to throw a challenge to the order dated 17.03.2023 with *parse* a zimni / interim order whereby, proceedings regarding framing of charge has been recorded.
2. The petitioner has placed on record the charge sheet by way of additional Criminal Misc. Application, which was already taken on record as Annexure P-7. It transpires from the record that the petitioner has already approached this Court for quashing of the FIR, however, the same was dismissed as withdrawn, however, with liberty to file an application under Section 227 Cr.P.C. The relevant extract of the order dated 02.03.2023 is read as under:-

“After going through the judgment of the Supreme Court dated September 14, 2022 passed in Criminal Appeal No 1562 of 22 Kanchan Kumar vs. The State of Bihar, learned counsel for the petitioner seeks to withdraw the present petition with liberty to the petitioner to move the competent Court under Section 227 Cr.P.C. seeking therein the petitioner's discharge.

*The above prayer made on behalf of the petitioner is accepted.
Dismissed as withdrawn with liberty as prayed for.”*

3. The learned counsel for the petitioner in order to challenge the order (supra) has submitted that there is no evidence whatsoever, to frame the charges under Section 307 IPC, against the present petitioner, and the only allegation against the petitioner, is that, she has given *thapa blow (an instrument used in the village, to clean the clothes)* to the injured Veerpal Kaur, and the injury which was suffered by Veer Pal Kaur, only attracts the penal provisions of Section 323-C IPC. The Court without examining the role of the petitioner, framed the charges under Section 307 IPC against the present petitioner. Therefore, he submits that the charge sheet is erroneously drawn documents which needs the interference of this Court, while exercising its statutory power of provisions.

FACTS OF THE MATTER

4. The instant revision petition has been registered on the statement of Jagir Singh son of Nazar Singh, who is brother-in-law of the son of the present petitioner. The relevant extract of the FIR reads as under:-

“Stated that I am a resident of above mentioned address and my elder sister namely Veerpal Kaur was teaching at Adarsh School before her marriage. The marriage of my sister was solemnized with Gursharan Singh s/o Hardev Singh r/o Naruana, in the year of 2015 and who was working as a Police official in the police department. My sister is having a daughter namely Amanat who is 2.5 years old. After about 2 years of solemnization of marriage, the in-laws family of my sister, started quarrelling with my sister. In this regard, earlier, compromise was effected in police station Civil Lines Bathinda, Police station Women Cell Malout through panchayat. Now also, my sister Veerpal was living at her village Mithdi due to aforesaid domestic reason. On 24.7.2020, on Friday, at Lambi, the aforesaid Gursharan Singh and his father Hardev Singh came to shop of Sarpanch Varinder Singh alongwith their panchayat and they had told us to come to their village through panchayat. At this, I alongwith my sister Veerpal Kaur, sarpanch Varinder Singh and other respectable of the family went to the village Naruana at the house of sarpanch Teja Singh and there Gursharan Singh alongwith his father Hardev Singh and other respectable persons were also present. As per the order of panchayat, today on 2.8.2020 at about 11, time was fixed at the house of

Gursharan Singh and today I in my car Ford Figo no.PB-11BH-5240 alongwith my sister namely Veerpal Kaur, her daughter Amanat, Bahadur Singh sarpanch Baari and Gurinder Singh sarpanch Mithdi, reached at the house of Gursharan Singh. We were also accompanied by Angrej Singh, Avtar Singh, Pargat Singh, Harpreet Singh, all residents of Mithdi and Kartar Singh r/ ° Mahina, who had came in their Innova car. When we reached at the house of Gursharan Singh then gate was closed and I knocked at the gate then after 2/3 minutes, Gursharan Singh suddenly opened the gate and he was having a pistol in his hand and he fired with his pistol towards me in order to kill me but I suddenly kneeled down and I entered into my car running. In the meantime, Hardev Singh who was having 12 bore rifle, came at the gate and fired a shot with his rifle towards me in order to kill me which passed through above my arm. Malkiat Kaur mother of Gursharan Singh who was having thapa in her came outside while abusing who gave 3-4 blows of thapa on the backside of my sister Veerpal Kaur and Veerpal Kaur remained standing there, Gursharan Singh after having pistol in his hand, started damaging the driver side glass of my car and Gursharan Singh also gave blow on the front glass of my car with his pistol and due to this reason, the glass of my car got broken. Then he pointed out the pistol on my temple but same could not be fired. We sat in our car and came towards the police station. In the way, I got the full magazine of the pistol of Gursharan Singh in my car and when I counted the bullets, there were 4 lives cartridges and which I am presenting to your goodself. Gursharan Singh and his father had fired upon me with intention to kill due to grudge of living my sister at their house. Malkiat Kaur gave injuries to my sister Veerpal Kaur so that she may not cohabit in their house. Statement has been got recorded and is correct. Kindly take legal action.”

5. It is trite law that at the time of framing of charge, the learned trial Court is required to evaluate the evidence for the purpose to ascertain under which offences accused can be tried. The charge sheet Annexure P-7, although which is not challenged before this Court, perusal of which reveals that the petitioner has been charged under Section 307 IPC, with the aid of Section 34 IPC. From the allegations as levelled in the FIR (surpa) as well as from the final reports, it transpires that the petitioner along with other co-accused, with an intention to kill assaulted the victim

and one of the co-accused caused gun shot injury to the complainant. It further transpires that the petitioner was very much involved, and actively participated in causing injury with the weapon of offence, as alleged to be carried by her at the time of incident. Therefore, learned trial Court concerned has not erred in framing of charge under Section 307 IPC, read with Section 34 IPC.

6. Counsel for the petitioner to raise the issue of false implications and non sharing of common intention, cannot be adjudicated by this Court, specifically when the issue of framing of charges against the present petitioner is under consideration before this Court.

7. In view of the above recorded facts, this Court do not find any error in order of framing of charge. Further, it is apt to note that despite giving opportunity to petitioner to file petition under Section 227 Cr.P.C, by the Co-ordinate Bench of this Court vide order dated 02.03.2023 (supra), the petitioner did not prefer any application.

8. Therefore, the instant revision petition infact, seems to have been moved with sole purpose to delay the ongoing trial. The instant petition is ordered to be **dismissed**, however, the petitioner is at liberty to raise all such pleas, which have been raised before this Court through the instant petition before the learned trial Court concerned at an appropriate stage of the trial.

9. Dismissed as withdrawn with the aforesaid liberty.

19.03.2024

mamta

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(KULDEEP TIWARI)

JUDGE