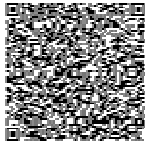


2024:PHHC:162049



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

211+221 (02 cases)

1. CRM-M-62151-2023 (O&M)

Vidya Devi ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM-M-47003-2024 (O&M)

Narender ...Petitioner

Versus

State of Haryana ...Respondent

Date of decision : 04.12.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Manvi Arora, Advocate and
Mr. Sachin Sharma, Advocate
for the petitioner in CRM-M-62151-2023.

Mr. Bikram Chaudhary, Advocate
for the petitioner in CRM-M-47003-2024.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Dr. Pankaj Nanhera, Advocate,
Mr. Rahul Gautam, Advocate,
Mr. Navneet Sharma, Advocate and
Mr. Rishav Kamboj, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of aforementioned two petitions as
they arise out of the same FIR and seek similar relief.

2. CRM-47970-2024 in CRM-M-62151-2023

Allowed as prayed for, subject to all just exceptions.

Copy of FIR No. 298 dated 08.07.2024 is taken on record.

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3. Prayer in these petitions, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioners in FIR No. 175 dated 11.04.2023, registered under Sections 148, 149, 323, 324, 307 and 506 of IPC (Section 25 of Arms Act, 1959 and Section 302 of IPC added later on) at Police Station Kheripul, District Faridabad.

4. As per the prosecution case, on 11.04.2023, on receipt of information regarding admission of Tulle Ram, Omwati and Yadram in Amrita Hospital, Faridabad due to injuries sustained in some altercation, police officials reached there and obtained opinion of doctor regarding condition of the injured. The injured Yadram was opined to be unfit to make any statement but Omwati and Tulle Ram were opined as fit to do so. The injured Tulle Ram submitted a written complaint alleging therein that on the previous day at about 3:00 PM, his wife and he himself were present at home, when petitioner Vidya Devi, who lived in the neighbourhood, while passing through the house of the complainant was heard calling bad names to the family members of the complainant. Hearing so, the complainant told her not to do so and then she left. Then on 11.04.2023, at about 7:00 AM, the above said Vidya Devi and her son petitioner Narender, who were living in neighbourhood, came out in the street and started talking about the abuses hurled on the previous day to the family of the complainant. On hearing so, the complainant and his wife came out, then Vidya Devi opened an assault upon the wife of the complainant by pulling her outside the gate of the house. Hearing the commotion, Sant Ram son of the complainant reached there and petitioner Narender slapped him. In the meanwhile, Yadram who is also son of the complainant, had reached there and tried to pacify the situation. Petitioner Narender left from home. Sometime thereafter, he along with Vijay Pal and other

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members of his family reached there and all of them opened assault upon the complainant, his wife and son. Accused Gaurav struck blows with a knife on the back of Yadram, whereas Vijay Pal and co-accused Sachin, Rahul, petitioner Narender and nephews of Vidya Devi gave fist blows and kicks to the complainant, his wife and son Sant Ram and daughter-in-law Bharti. Gaurav also assaulted Sant Ram, Bharti and Omwati with *dandas*. The other accused also extended beatings to them. A crowd had gathered and then the assailants fled away. On the basis of complaint given by complainant, initially a case under Section 148, 307, 323, 324 and 506 read with Section 149 of IPC and Section 25 of Arms Act had been registered. Victim Yadram succumbed to his injuries. Post mortem examination of his dead body and inquest proceedings were conducted. Offence under Section 302 of IPC was added. The petitioners were arrested on 16.04.2023 and 15.04.2023, respectively.

5. The present petitions have been filed by the petitioners and it has been argued by their counsel that they have been falsely implicated in this case. The injury which had proved fatal for Yadram had not been attributed to them but was attributed to co-accused Gaurav. No injury whatsoever had been attributed by the petitioners to the deceased. Petitioner Vidya Devi is only alleged to have caught hold of the deceased by his neck, whereas petitioner Narender is alleged to have given slaps to the deceased. Rather, petitioner Vidya Devi had also sustained injuries in the incident and these injuries have not been explained by the complainant side. As per the medico legal report, only one abrasion/lacerated wound was found on the head of Omwati and only two injuries which were declared to be simple in nature had been sustained by the complainant and these injuries were not attributed to the petitioners alone. Trial is likely to take time.

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The petitioners do not have any criminal antecedents. It is a case of version and cross-version and at the instance of petitioner Narender and co-accused Rahul, an FIR bearing No. 298 dated 08.07.2024, under Sections 148, 149, 324, 326, 307, 452, 354-A, 506, 120-B, 34 of IPC and Section 25 of the Arms Act, 1959 has been registered against the complainant and it is yet to be adjudicated as to who was the aggressor party. Further detention of the petitioners would not serve any useful purpose. Therefore, it is urged that the petitions deserve to be allowed.

6. Separate status reports have already been filed by respondent-State. It is argued by learned State counsel, assisted by learned counsel for the complainant, that the petitioners formed a membership of unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, opened an assault upon the victims and had caused injuries to them. One of the victims namely Yadram succumbed to the injuries sustained by him and had died whereas, the other injured had also sustained serious injuries. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion thereof. There are chances of petitioners' intimidating the witnesses, if extended benefit of bail. The allegations against the petitioners are quite grave in nature. Therefore, it is argued that the petitions are liable to be dismissed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

8. The petitioners are alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, the petitioners and co-accused are alleged to have

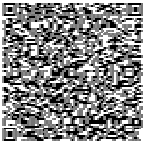
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assaulted the members of the complainant party. Injuries sustained by the victim Yadram i.e. son of the complainant had resulted into his death. No doubt, no specific injury has been attributed to petitioner Vidya Devi. However, it cannot be ignored that she was not only named in the FIR at the very first instance but her active participation in commission of offence of murder of the victim had also been alleged as she was alleged to have caught hold of deceased Yadram by his neck while co-accused were assaulting him with the weapons carried by them. She might have sustained some injuries in the incident but as per medico-legal report (Annexure P-3), she was diagnosed with swelling in occipital region, tenderness with pain in right knee and hand, chest compressiveness, pain in abdomen and pain in lower back. However, none of these injuries is opined to be serious in nature and the possibility that these injuries had been sustained by her by the victim in the acts of rescuing themselves cannot be ruled out. The complainant has since been examined and he has supported the prosecution case.

9. Petitioner Narender is also alleged to have actively participated in the commission of subject offences and is alleged to have given slap and kick blows to the deceased and other victims. Being members of unlawful assembly, the petitioners are presumed to be having a common object to cause death of the victim Yadram and injuries to the other injured persons including the complainant. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. The cross case against the members of complainant party had been registered only on 08.07.2024 i.e. after a gap of three months from the date of occurrence. Therefore, keeping in view the gravity of the allegations as levelled against the petitioners, number of victims and attending facts and circumstances of the case, I am of the considered

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opinion that the petitions do not deserve to be allowed. Accordingly, the same are dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.

10. Let a photocopy of this order be placed on the file of the connected case.

04.12.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No