

(2009) 07 P&H CK 0233

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Rev. No. 1737 of 2009

Chamkaur Singh and others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 15, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 148, 149, 307

Citation: (2009) 32 CriminalCC 78

Hon'ble Judges: Rajan Gupta, J

Bench: Single Bench

Advocate: C.L. Verma, for the Appellant;

Final Decision: Dismissed

Judgement

Rajan Gupta, J.

This is a revision petition against the order dated 30.05.2009 passed by the Additional Sessions Judge (Adhoc) Fast Track, Ludhiana vide which charge has been framed against the petitioners under Sections 307, 353, 186, 171, 333, 332, 148, 149 IPC.

2. Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in the present case. No offence is made out against them particularly offence u/s 307 IPC and thus, the impugned order dated 30.05.2009 framing charge deserves to be set aside. Learned counsel has placed reliance on the judgment of this Court reported as Gurmit Singh v. U.T. Chandigarh, 2003 (1) RCR (Crl.) 535 to contend that in the said case this court was pleased to set-aside an order whereby charge u/s 307 IPC was framed, while other charges were allowed to stand. According to the counsel, the instant case is of similar nature.

3. I have heard counsel for the petitioner and perused the record annexed with the petition.

4. The allegations against the petitioners as made out from the impugned charge-sheet are that on 11.05.2008 at about 9.00 P.M. in the area of village Ramgarh Bhullar they formed an unlawful assembly and in furtherance of their common intention, caused injuries to SI Gurcharan Singh and Constable Harvinderpal Singh. They were armed with deadly weapons at that time. They were charged u/s 148 IPC. By the said act, had they caused the death of SI Gurcharan Singh they would have been guilty of murder and thus they were charged u/s 307 read with Section 149 IPC. Not only this they assaulted SI Gurcharan Singh and Constable Harvinderpal Singh, public servants with an intention to prevent them from discharging their public duty and thereby committed an offence punishable u/s 353 IPC. Further they have obstructed SI Gurcharan Singh and Constable Harvinderpal Singh, public servant from discharging their duty function and were charged u/s 186 IPC. This apart the petitioners were charged under Sections 332 and 333 IPC and also u/s 171 IPC read with Section 149 IPC.

5. In view of the serious charges levelled against the petitioners, it cannot be said at this stage that no offence is made out. As regards the contention of the counsel that no offence u/s 307 IPC is made out and that charge could not be framed under the said Section, this plea is untenable. The view taken in the case of Gurmit Singh (supra) in my considered view is not applicable to the facts of the present case as in the said case FIR was initially lodged under Sections 147, 149, 324 and 506 IPC and at the time of filling challan, offence u/s 307 IPC was added. In that case, the court came to a *prima facie* conclusion that the State of mind of the petitioners and the surrounding circumstances did not make out a case that there was an intention to commit murder on the part of petitioners (accused) and thus, offence u/s 307 IPC was quashed. However, present is not the case of that nature. The petitioners are alleged to have been armed with deadly weapons and attacked public servants while they were discharging their official duties. From the facts and circumstances of the present case it is not possible to conclude at this stage that ingredients of offence u/s 307 IPC are not made out, nor can it be said that there was no intention to cause death. Moreover, in para 18 of the aforesaid judgment, reliance was placed on the judgment reported as *Satish Mehra v. Union of India* reported in 1996 (3) RCR (Crl.) 410 (SC). However, judgment in Satish Mehra's case (supra) was later overruled. In [Bharat Parikh Vs. C.B.I. and Another](#), the Apex Court observed as under :

.....The decision in Satish Mehra case having been overruled in Debendra Nath Pandhi case the contention of Mr. Desai that the Magistrate should have reopened the matter on the basis of the documents produced by the prosecution at the instance of the accused, is no longer *res integra*. The question of discharge by the learned Magistrate after framing of charge does not, therefore, arise, notwithstanding the submissions advanced with regard to denial of natural justice and a fair and speedy trial as contemplated under Article 21 of the Constitution, which have no application whatsoever to the facts of this case.

6. I thus, find no ground to interfere with the impugned order in the revisional jurisdiction of this court. The petition is dismissed being devoid of merit.