

**HIGH COURT OF MADHYA PRADESH**  
**BENCH AT GWALIOR**

**SINGLE BENCH**  
**CRIMINAL REVISION No.2752/2018**

**Manvendra Singh alias Ramu and others**  
**Vs.**  
**State of Madhya Pradesh**

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Shri MPS Raghuvanshi, learned counsel for the petitioner.  
Shri Avnish Singh, learned Public Prosecutor for the respondents/State.  
Shri Pratip Visoriya and Shri Abhishek Singh, learned counsel for the complainant.  
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**Present :**                   **Hon. Mr. Justice Anand Pathak**

**ORDER**  
**{Passed on 16<sup>th</sup> day of November, 2018}**

Present petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 has been preferred by the petitioners/revisionists for quashment of order dated 13-04-2018 passed by learned Additional Sessions Judge, Seondha District Datia in S.T.No.02/2018 whereby the charges for the offence under Sections 148, 302/149, 307/149, 341, 336 of IPC and under Section 25(1)(1-b) (a) and 27 of the Arms Act have been framed.

2-                   Petitioners are facing trial for the alleged offences referred above on the basis of prosecution story whereby the complainant Kuldeep lodged an FIR on 24-09-2017 stating that when the complainant along with his father (deceased Kailash) were going to their village, they were intercepted by the accused and other persons armed with gun and other weapons, opened fire and caused injuries by *Lathi* to them. His father succumbed to the injuries and died. Case was registered for the offences mentioned above. During investigation, an application by Sanjay Dixit was preferred on behalf of accused persons, namely, Sonu alias Janak Singh, Pan Singh, Parmal Singh and Narayan Singh before the

Inspector General of Police for fair and impartial enquiry on which, Addl. Superintendent of Police, District Datia was given the task to enquire under Section 36 of Cr.P.C. Enquiry conducted and Addl. Superintendent of Police, Datia submitted his report before the Superintendent of Police, Datia. Enquiry report indicates the presence of accused Sonu alias Janak Singh at Gwalior, on the basis of tower location of his mobile number. Similarly, CCTV footage of Parmal Singh Gurjar, Narayan Singh and Pan Singh indicate that they were at some different place and not at the place of incident when incident allegedly occurred as per the investigating officer. Charge-sheet has been filed and petitioners are facing trial. Trial Court framed the charges for the offences as referred above, therefore, this petition.

3- According to learned counsel for the petitioners, trial Court erred in framing the charge for alleged offences under Sections 148, 302/149, 307/149, 341, 336 of IPC and under Section 25(1)(1-b) (a) and 27 of the Arms Act against the petitioners. Against the petitioner Narayan Singh, the complainant in his statement under Section 164 of Cr.P.C. has not mentioned his name. Similarly, against Sonu alias Janak Singh and Pan Singh, the allegations were not found proved in the enquiry conducted by the Addl. Superintendent of Police, Datia under Section 36 of Cr.P.C. Therefore, on the basis of enquiry report petitioners deserve discharge. Injuries caused over the body of Kuldeep (complainant) is not sufficient to frame charge under Section 307 of IPC against the petitioners.

4- On the other hand, learned Public Prosecutor for the respondent/State opposed the prayer made by the petitioner and submitted that charges have been framed against the petitioners and now petitioners have to prove their innocence before the trial Court by leading evidence. Thus, prayed for dismissal of petition.

5- Learned counsel for the complainant also opposed the prayer made by the petitioners. He vehemently submitted that the legal sanctity of enquiry report prepared by the Addl. Superintendent of Police under Section 36 of Cr.P.C. is doubtful in law and relied the judgment rendered by this Court in the case of

**Amit Chaturvedi and others Vs. State of M.P. and another, 2017 (2) MPLJ (Cri) 362.** He prayed for dismissal of petition.

6- Heard learned counsel for the parties and perused the documents appended with petition.

7- Scope of revision against charge is very limited. The Hon'ble Apex Court time and again has defined the scope of revision in the matter of **Chandra Babu Vs. State Through Inspector of Police and others, (2015) 8 SCC 774**) which reads as under:

*“First, we shall dwell upon the issue whether the High Court, in exercise of the revisional jurisdiction, should have adverted to the merits of the case in extenso. As the factual matrix would reveal, the learned Single Judge has dwelled upon in great detail on the statements of the witnesses to arrive at the conclusion that there are remarkable discrepancies with regard to the facts and there is nothing wrong with the investigation. In fact, he has noted certain facts and deduced certain conclusions, which, as we find, are beyond the exercise of revisional jurisdiction. It is well settled in law that inherent as well as revisional jurisdiction should be exercised cautiously. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the Court. (see [Amit Kapoor v. Ramesh Chander](#)[4]).”*

8- When the said legal principle is tested on the anvil of present set of facts then it appears that as per the prosecution case, petitioners while forming unlawful assembly and harbouring common intention obstructed the complainant Kuldeep and his father Kailash while putting tractor trolley in front of their motorcycle and used firearm as well as other weapons. Statements of witnesses were recorded under Section 161 of Cr.P.C. and witnesses referred the role of each accused in categorical terms. Besides that, weapons were seized by different seizure memos and medical report indicates that death was homicidal in nature. Only on the basis of report prepared by the Addl. Superintendent of Police under Section 36 of Cr.P.C. it cannot be concluded about the innocence of the petitioners at this juncture. Scope of revision under

Section 397 of Cr.P.C. is limited.

9- In the cumulative analysis, perusal of charge-sheet and charges framed against the petitioner persuaded this Court to dismiss the revision against charge as no legal infirmity or jurisdictional error has been referred by the petitioners to invoke the limited revisional jurisdiction in the case in hand. Petitioners have to plead and prove their case by way of leading evidence in trial.

Revision petition stands dismissed.

Anil\*

**(Anand Pathak)**  
**Judge**