

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

**Crl. Misc. No. M-15073 of 2013
Date of Decision: 19.01.2015.**

Ravinder Kumar Sharma

.....Petitioner

Vs.

Jony Bhardwaj @ Kala

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. H.P.S.Ghuman, Advocate
for the petitioner.

Mr. Shailendera Sharma, Advocate
for the respondent.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the orders dated 17.11.2012 (Annexure P-1) and dated 16.4.2013 (Annexure P-2) whereby application moved by the petitioner seeking framing of charge against the respondent under Section 452 of the Indian Penal Code, 1860 ('IPC' for short), was dismissed.

Learned counsel for the petitioner has submitted that as per the FIR, all the accused had inflicted injuries on the person of the complainant when he reached near his house. Thereafter, all the accused pushed the complainant inside his house while inflicting injuries on his person and when wife of the complainant came to rescue the complainant, she was also inflicted injuries by the accused. The Trial Court had framed

charge against accused Luxmi Devi and Kishanpal under Section 452 IPC but had failed to do so qua respondent Jony Bhardwaj alias Kala, although, allegations against all the accused were identical.

Learned counsel for the respondent, on the other hand, has opposed the petition and has submitted that petitioner had filed a revision petition before the Sessions Court that charge under Section 452 IPC be framed against accused Luxmi Devi and Kishanpal but no such prayer was made qua the respondent. Therefore, the Courts below rightly declined the application moved by the petitioner for framing charge against the respondent under Section 452 IPC.

In the present case, after investigation of the case, challan was presented against accused Luxmi Devi and Kishanpal. Charges were framed against the said accused under Section 341, 324, 323 IPC. Petitioner filed a revision petition against the said order claiming that charge be also framed against them under Section 452 IPC. Thereafter, respondent was ordered to be summoned to face the trial on an application moved by the petitioner under Section 319 Cr.P.C. Apparently, when the petitioner had filed revision petition against the order whereby charges were framed against accused Luxmi Devi and Kishanpal, the respondent had yet not been summoned to face the trial and no request could be made qua the respondent that charge be also framed against him under Section 452 IPC. A perusal of the FIR reveals that the allegations against all the accused are that they had attacked the complainant with their respective weapons near his house and had, thereafter, pushed

him in the house while inflicting injuries on his person. When the wife of the complainant came forward to save the complainant, all the accused inflicted injuries on her person also. Parties are closely related to each other. Since charge has been framed against accused Luxmi Devi and Kishanpal under Section 452 IPC, the same was liable to be framed against the respondent also.

Accordingly, this petition is allowed. Impugned orders dated 17.11.2012 (Annexure P-1) and dated 16.4.2013 (Annexure P-2) are set aside. Consequently, the application moved by the petitioner for framing charge against the respondent under Section 452 IPC, is allowed.

**(SABINA)
JUDGE**

January 19, 2015
Gurpreet