

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

**Criminal Misc. No. M-12785 of 2015
Date of Decision:-23.04.2015**

Rajesh Kumar and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Bir Davinder Singh, Advocate
for the petitioners.

HARI PAL VERMA J.(Oral)

Through the instant petition the petitioner has prayed for quashing of order dated 3.3.2015 (Annexure P-5) passed by learned Additional Sessions Judge, Patiala, whereby the revision petition against the order dated 2.4.2014 passed by the Judicial Magistrate 1st Class, Patiala, framing charges against the petitioner in case FIR No.69 dated 20.6.2012, under Sections 323, 325, 452, 506, 201 and 148 read with Section 149 IPC, registered at Police Station Passiana, District Patiala, was dismissed.

Briefly stated the facts of the case are that on the basis of statement of complainant Darshan Singh, the aforesaid FIR was

registered. The complainant has stated that his wife is a Sarpanch and on 19.6.2012 at about 9 PM, he alongwith his wife Palo Devi, both his sons, daughter-in-laws and his daughter heard a lalkara in the street. Meantime, the light also went off. Few persons raised lalkara that he (complainant) be taught a lesson for being the village head and pushed open the gate of the house of the complainant. Then 10-12 persons forcibly entered into his house carrying sticks and hockeys, while some of them were un-armed. The names of the persons, who forcibly entered into their house are Gurpreet Singh, Jassi sons of Bant Ram, Labh son of Piara Singh, Piara Singh son of Sohan Singh, Tejwinder Singh son of Darshan Singh, Chamkaur Singh son of Sant Singh, Ram Singh son of Piara Singh, **Rajesh Kumar son of Ashok Kumar, Pawan Kumar son of Ashok Kumar**, Gurjit Singh alias Mittu son of Dhanna Singh and Balwant Singh son of Prem Singh, residents of Village Khera Jattan. The accused persons pushed them and caught hold of him and his wife. Then Balwant Singh son of Prem Singh inflicted a stick blow on his head. **Rajesh Kumar son of Ashok Kumar** also inflicted a stick blow, which hit in his abdomen. Piara Singh son of Sohan Singh gave a fist blow on his mouth. Ram Singh gave a stick blow on his back. All the accused persons inflicted injuries to his wife in his presence. They were saved by his sons, daughter-in-laws and daughter. Thereafter, the accused went away from the spot with their respective weapons while raising lalkaras and giving threats. The complainant and his wife were admitted to Rajindera Hospital, Patiala. The motive behind the occurrence was that the articles of gymnasium were lying in the house of complainant, as there

was no vacant place in the village to keep the same. The accused persons wanted to take forcibly the articles of gymnasium with them from his house.

The FIR regarding above incident was registered against the accused persons. MLRs of the injured persons and opinions of the doctor regarding fitness of the injured were obtained. As per MLR of injured Darshan Singh, four injuries were found to be inflicted on his person with blunt weapons and x-ray opinion was advised. It is on the basis of the statement of the complainant and MLRs, the offence under Sections 323, 325, 452, 201, 506 and 148 read with Section 149 IPC was made out against the accused.

Challan was presented in the Court and finding a prima-facie case against the petitioners, charge was framed by the trial Court on 2.4.2014.

Against the charge dated 2.4.2014, the petitioner has filed a revision petition before the learned Additional Sessions Judge, Patiala, who vide order dated 3.3.2015 dismissed the same. Hence, the petitioners have filed the present revision challenging the framing of charges.

Learned counsel for the petitioners has argued that on the basis of facts as stated in the FIR and the charges framed thereunder, no offence under Section 452 IPC is made out against the petitioners, therefore, the trial Court has wrongly framed the charges.

I have heard learned counsel for the petitioners.

The learned revisional Court vide order dated 3.3.2015 has

observed as under :-

“9. In the present case, there are specific allegations against the accused persons including the revisionists for causing injuries on the person of the complainant Darshan Singh and his wife Palo Devi after forcibly entering into the house of the complainant and raising lalkaras after forming unlawful assembly, and being armed with deadly weapons. It is also worth mentioning that accused-applicants Rajesh Kumar, Pawan Kumar, Labh Singh, Chamkaur Singh, Tejwinder Singh and Gurjit Singh filed an application under Section 239 of the Cr.P.C. for discharge of the accused, which were dismissed by the learned Lower Court vide order dated 6.11.2013. the revision petition filed against the order dated 6.11.2013 dismissing the application for discharge of the accused was also dismissed by the learned Appellate Court.”

In view of the judgment of ***Sheoraj Singh Ahlawat and others vs. State of Uttar Pradesh and another*** 2013(1) Criminal Court Cases 503, where it has been held that at the stage of framing of charge, the Court is required to consider whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. Even strong suspicion founded on material would justify the framing of the charge.

Considering the fact that there are specific allegations against the accused persons for causing injuries to the complainant and his wife Palo Devi after forcibly entering into the house of the complainant, the ingredients of Section 452 IPC are established.

Accordingly, the present petition is dismissed.

However, it is made clear that whatever has been observed here-in-above shall not be construed an opinion on merits of the case and the present petition is decided only on the issue of framing of charge and the order dated 3.3.2015 passed by the learned Additional Sessions Judge.

April 23, 2015
Vijay Asija

(*HARI PAL VERMA*)
JUDGE