

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

C.R.M-M No.37042 of 2014

Date of Decision : 10.02.2015

Dharambir

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Anil Ghanghas, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.A.G., Haryana.

Mr. S.S. Verma, Advocate
for the respondents No.2 to 10.

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

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of the impugned orders dated 30.04.2014 passed by the JMIC, Charkhi Dadri and dated 02.08.2014 passed by the Additional Sessions Judge, Bhiwani, thereby declining the application of the petitioner under Section 311 Cr.P.C. for producing the Radiologist and other witnesses.

As per the allegation, on the fateful day the petitioner and his wife and other family members had been inflicted injuries by the respondents No.2 to 10. One of the injury which had been inflicted on the wife of the petitioner was a blow on the left side of the abdomen which

resulted into contusion. About 15 days after the incident when the wife of the petitioner was still feeling discomfort she was examined by the Radiologist who reported that she was actually pregnant and thereafter that foetus was aborted. It was in these circumstances that evidence was not included in the challan and the petitioner subsequently filed an application for leading that evidence. The Magistrate rejected it on the ground that even if that evidence was permitted Section 316 IPC could not be made out.

Learned counsel for the petitioner has argued that the trial Court misdirected itself because even if Section 316 IPC was not made out that evidence could have been read towards the offence of Section 325 IPC. Further the learned counsel has argued that the fact that the petitioner did not disclose the pregnancy of his wife had also wrongly been held against the petitioner because at the time of the incident the pregnancy was less than 3 to 4 weeks and therefore there was no occasion for the petitioner to come to know about the same.

Learned counsel for the respondents No.2 to 10 is not in a position to deny these factual assertions.

Keeping in view the above factual matrix, I do not deem it appropriate to deny the prayer of the petitioner. Consequently, the petition is allowed and the impugned orders are set aside and the application filed by the petitioner is deemed to be allowed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

February 10, 2015

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