

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

CRM-M-583 of 2014.

Decided on: 27.1.2015.

Harmesh Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Arun Takhi, Advocate,
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

K.C.PURI.J.(ORAL)

This is a petition under Section 482 Cr.P.C for quashing the order dated 10.10.2007 passed by SDJM, Balachaur in FIR No.26 dated 25.3.2007 under Sections 323, 324, 325, 452, 506, 148 read with Section 149 IPC registered at Police Station Kathgarh, District Nawanshahar.

The FIR was registered on the statement of Smt. Surjit Kaur who stated that on 24.3.2007 about 5 PM she was taking water from the tap. She saw that Harbans Singh son of Ishar Singh started lifting the fire wood which was lying in the land of her son Joga Singh. She prohibited him from doing so but Harbans Singh told that he will lift the fire wood. In the meantime, Tarsem Singh son of Ishar Singh, Sukha son of Harbans Singh, Gurjit Kaur wife of Harbans Singh, Balbir Kaur wife of Harmesh Singh, Jitender Kaur daughter of Harbans Singh residents of Manewal came together inside her courtyard and called her with bad names. Due to fear, she got into the room from where Harbans Singh, Sukha and Harmesh Singh dragged her and brought her out and Harbans Singh gave her sword blow on

her right arm, Gurjit Kaur gave her brick bat blow on her right leg. Sukha gave her spade blow from reverse side which hit on her left biceps, Harmesh Singh alias Pappu son of Ishar Singh gave fist blow on her face thereafter her daughter Darshan Kaur came forward to save her whereupon Balbir Kaur wife of Harmesh Singh and Jatinder Kaur also gave beatings to her daughter. She raised noise of 'Mar Ditta Mar Ditta'. After hearing her noise, Gagandeep Singh reached at the spot and rescued them. Consequently, present FIR was registered.

After investigation, challan against the accused was presented in the Court. However, the petitioner did not appear before the trial Court and ultimately, he was declared proclaimed offender vide order dated 10.10.2007.

Learned counsel for the petitioner has submitted that service of the summons was not effected as the petitioner was abroad but there is no document on the file to support this contention.

Learned counsel for the petitioner has submitted that other co-accused has been acquitted so, in view of authority **Sudo Mandal @ Diwarak Mandal vs. State of Punjab 2011(2) RCR (Criminal) 453,** the proceedings against the petitioner cannot continue.

However, that argument is meritless as counsel for the petitioner has himself argued that some of the accused have been convicted and they have been given benefit of probation by the First Appellate Court. So, the conviction of other co-accused has been maintained.

However, the contention raised by learned counsel for the petitioner is that he cannot be declared proclaimed offender under Section

82(4) Cr.P.C and at the most, he can be declared proclaimed person.

The State counsel has not disputed the said proposition of law and has submitted that the petitioner cannot be declared proclaimed offender but he can be declared proclaimed person.

So, in these circumstances, the order of the trial Court declaring the petitioner as proclaimed offender stands modified to the extent that the petitioner is declared proclaimed person in view of the authority

Rahul Dutta vs. State of Haryana 2012(2) RCR (Criminal) 585.

The petition stands disposed of.

27.1.2015.
SN

(K.C.PURI)
JUDGE