

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

**Criminal Misc. No. M-2492 of 2015
Date of Decision:-15.7.2015**

Pritpal Singh and others

...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. A.P. Kaushal, Advocate
for the petitioners.

HARI PAL VERMA J.(Oral)

This is a petition against the order dated 13.5.2015, whereby the trial Court has amended the charge-sheet and has incorporated provision of Section 308 read with Section 34 IPC against the petitioners.

Learned counsel for the petitioners submits that the material as available before the trial Court was not sufficient to frame charge under Section 308 IPC. The observation of the learned Magistrate that 'prima facie it appears that the act was done with the knowledge that accused shall be guilty of culpable homicide not amounting to murder' is hardly attracted on the facts of the case.

I have heard learned counsel for the petitioners.

Dr. Nishan Singh, Medical Officer, Civil Hospital, Mansa,

while appearing as PW1 had stated that the patient Bhag Singh, aged 80 years, was admitted vide CR No.236 as referred case of alleged ML injuries with head injury. He was treated on medicines only and no surgery was done. However, during treatment, the injured Bhag Singh was referred for CT Scan on 5.2.2009. The CT Scan report shows that hypodense area in left temporal lobe s/o resolving contusions and diffuse cortical atrophy-age related. He has further deposed that the CT Scan report of the same patient of 7.1.2009 shows acute EDH right parietal region and intracerebral haematoma left temporal lobe and fracture of right parietal and squamous temporal bones. It is only on the basis of this statement, the petitioners have been charge-sheeted under Section 308 IPC.

Considering the fact that the charges have been framed much after the incident i.e. after about six years, the prosecution has to prove their case by leading evidence considering the fact that the petitioners have been charge-sheeted only on 13.5.2015 and are facing the prosecution for the last about six years. The trial Court shall consider the request of the petitioners regarding exemption from their personal appearance unless otherwise required. The trial Court shall conduct the trial on the basis of available evidence without giving any importance to the word 'prima facie' as observed by the learned Magistrate.

With the aforesaid observation, the petition is disposed of accordingly.

July 15, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE