

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

CRM M-36515 of 2013

Date of decision :23.02.2016

Subhash Sharma

....Petitioner

V/s

State of Haryana & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jagdish Manchanda, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG Haryana.

Ms. Monisha Lamba, Advocate
for respondent no. 2.

RAJAN GUPTA J.

Petitioner has sought quashing of order dated 29.03.2012 passed by Judicial Magistrate Ist Class, Faridabad and order dated 23.10.2013 passed by Additional Sessions Judge, Faridabad whereby respondent no. 2 was not charged under sections 307, 395, 397, 452 IPC and section 25/27/56/59 of the Arms Act.

Learned counsel for the petitioner has assailed the orders on the ground that both the court below did not consider the evidence on record in correct perspective. According to him, courts below have committed an illegality by not framing charge under sections 307, 395, 397, 452 IPC and section 25/27/56/59 of the Arms Act in view of nature of injuries suffered and weapons used in the crime. Thus, impugned orders deserve to be set-aside.

Plea has been opposed by learned counsel appearing for respondents no. 2 to 6.

Heard.

It appears that FIR was lodged on the statement of Subhash Sharma (petitioner herein). He alleged that he was dealing in building material. On the fateful day at about 7.00 p.m. one Anil Yadav came to him alongwith dumper No. HR-38N-1934 belonging to Deshbandu Guglani. He disclosed him that he was robbed of his driving licence and ₹1000/- by three boys near the Peer Baba. Thereafter, petitioner informed the incident to his employer. After about an half an hour respondent no. 2 alongwith other accused armed with various weapons came to his shop and asked about the whereabouts of persons who had come in dumper. They claimed that Anil Yadav had taken away one of their person. At this stage, accused Krishan fired a shot in the air. Accused Jaswant hit him with a rod on his head while Bholu assaulted him with a sword and threatened to kill him. Besides, other accused also caused injuries with their respective weapons. Thereafter, petitioner fell down on the ground and become unconscious. While fleeing, accused took away ₹72,500/- cash from the cash box of petitioner. The entire incident was witnessed by his clerk Raj Kumar. He was later taken to Ashwani Hospital. Investigation ensued. After completion of investigation, challan against the accused was presented before the competent court. On consideration of preliminary evidence, charge was framed against the accused under sections 148, 323 read with section 149 and 506 IPC vide order dated 29.03.2012. Aggrieved, petitioner preferred

revision before the court of Additional Sessions Judge, Faridabad against order framing charge. He pleaded that additional charge needed to be framed under sections 307, 395, 397 & 452 IPC and section 25/27/56/59 of the Arms Act in view of nature of injuries suffered by him and weapons used in the crime. Vide order dated 23.10.2013, said court dismissed the plea of the petitioner observing that there was no recovery of any weapon whatsoever from respondent no. 2. Moreover, injuries suffered by petitioner are neither on vital parts nor declared dangerous to life. I find no infirmity with the orders passed. At the stage of framing of charge, only prima facie evidence is to be seen. Both the courts felt that there was no ground for summoning the accused for trial under the aforesaid sections. No case has been made out for differing with the conclusion arrived at by the courts below. There is no merit in the petition. Dismissed.

February 23, 2016

Ajay

(RAJAN GUPTA)
JUDGE