

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

**Criminal Misc. No. M-36016 of 2015  
Date of Decision: 14.01.2016**

Rajinder Kaur

...Petitioner(s)

Versus

Gurdas Singh & others

...Respondent(s)

**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. PKS Phoolka, Advocate  
for the petitioner.  
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**HARI PAL VERMA J.(Oral)**

Prayer in this petition filed under Section 482 CrPC is for quashing of order dated 5.8.2014 passed by learned Additional Chief Judicial Magistrate, Bathinda, whereby in a complaint filed by the petitioner under Sections 323/324/34 IPC (Section 325 IPC added later on), learned Magistrate has declined the prayer to summon respondents no.2 and 4 and ordered summoning of respondents no.1 and 3 for offence under Sections 323/34 IPC only. Challenge has also been laid to order dated 18.9.2015 passed by learned Additional Sessions Judge, Bathinda,

whereby revision petition filed by the petitioner against order dated 5.8.2014 has been dismissed.

As per the complaint made by the complainant, there was a joint land in the names of husband of the complainant and the accused. After retirement, her husband demanded the possession of the land. Thereafter, a compromise was effected between the parties. However, on 25.5.2010, when Dharam Singh came to take the handle of the pater engine from their house, they asked him to take from the house of the accused and thereafter, the accused started abusing, stating that they will not allow the complainant's family to cultivate the land as per compromise. Thereafter, accused Gurdas Singh armed with *Soti* and other accused, who were empty handed, came at the spot. The accused Mita @ Charanjit Kaur caught hold of the complainant from her hair and accused Gurmit Singh and Gurmail Kaur rounded the complainant. Accused Gurdas Singh gave a *soti* blow on the left shoulder of the complainant and after raising hue and cry, they left the spot. Thereafter, after conducting medical examination of the complainant-petitioner, DDR was registered.

The trial Court after appreciating the evidence on record ordered summoning of accused Gurdas Singh, respondent no.1 and Meeta @ Charanjit Kaur, respondent no.3, for offence under Sections 323/34 IPC vide order dated 5.8.2014. The other accused were not summoned by the trial Court in absence of any evidence with regard to the allegations levelled against them.

The relevant part of the findings recorded by the trial Court read as under:-

*“Firstly, complainant stated that there is a joint land between husband of complainant and accused and after retirement, her husband demanded the possession of the land, which was in possession of accused and thereafter compromise was effected between the parties. She further stated that on 25.5.2010, at about 6.00 a.m., when Dharam Singh came to take the handle of peter engine from their house, then they asked him to take the handle from the house of accused and thereafter accused Gurdas Singh armed with Soti and other accused empty handed came at the spot. Thereafter accused Meet @ Charanjit Kaur caught hold the complainant from her hairs and accused Gurmit Singh and Gurmail Kaur rounded the complainant and accused Gurdas Singh gave a soti blow on the left shoulder of the complainant. Although counsel for the complainant while pointing out the statement of CW-4 and CW-6 stated that there is a fracture, so offence under Sec.325 is also made out, but it is clear that on 25.5.2010, when her medical examination was conducted, then only one injury was found, which was caused with blunt weapon and on the next day, doctor conducted the supplementary MLR in which he showed two injuries on the person of complainant. So it is clear that in the MLR dated 25.5.2010, there is only one injury. Doctor had reported that injury on the wrist is a fracture, but it is clear that complainant had not stated anywhere that accused had caused injuries on her wrist. So oral evidence of the complainant does not support the medical evidence. So no ground is made out to summon the accused under Sec.325 IPC.*

*Secondly, counsel for the complainant stated that offence under Sec.324 is made out, but it is clear that there is no injury with the sharp edged weapon, so offence under Sec.324 IPC is also not made out. Similarly complainant stated that all the accused caused injuries on the person of complainant, but it is clear that as per MLR*

*dated 25.5.2010, there is one injury and no injury has been attributed to the other accused. Complainant stated that accused Meeta @ Charanjit Kaur caught hold her from her hairs, so there are specific allegations against accused Meeta @ Charanjeet Kaur and Gurdas Singh. Complainant failed to attribute any injury to accused Gurmail Kaur and Gurmeet Singh. So their presence is doubtful at the place of occurrence. Accordingly, no ground is made out to summon them. Complainant had specifically stated that on 25.5.2010, at about 6.00 a.m., accused Charanjeet Kaur caught hold her from her hairs and accused Gurdas Singh gave a soti blow on her left shoulder. Her statement is duly supported by CW-3 her husband Gobind Singh, CW-4 Dr.H.S.Hayer and CW-5 Dharam Singh. So after going through the statements of witnesses and documents placed on record, I come to conclusion that there are sufficient grounds for proceedings against accused Gurdas Singh and Meeta @ Charanjit Kaur under Sec.323/34 of IPC. Accordingly, they both be summoned for 4.11.2014 on filing of PF, copies within a week."*

Against the aforesaid order dated 5.8.2014, the complainant-petitioner preferred a revision petition with a prayer that all the respondents be summoned for commission of offence under Section 325 IPC, however, same was dismissed by learned Additional Sessions Judge, Bathinda vide order dated 18.9.2015.

It is in the aforesaid circumstances the petitioner has filed the prevent petition, impugning the judgments passed by the Courts below.

Learned counsel for the petitioner contended that at the time of summoning, only prima facie case is to be seen. In the instant case, a DDR was duly registered by the complainant in

which the names of all the respondents were entered which were further corroborated by MLR and x-ray in respect of the petitioner but the trial Court has not appreciated the entire evidence in its true perspective and thus, but by not summoning the accused for the aforesaid offences, learned trial Court has committed grave illegality which the learned revisionary Court also failed to take cognizance.

I have heard learned counsel for the parties and perused the impugned orders passed by the Courts below.

Learned trial Court after appreciating the evidence on record ordered summoning of accused Gurdas Singh, respondent no.1 and Meeta @ Charanjit Kaur, respondent no.3, for offence under Sections 323/34 IPC vide order dated 5.8.2014, as the allegation against Gurdas Singh was that he gave a *Soti* blow on the left shoulder of the complainant, whereas the allegation against accused Meeta @ Charanjit Kaur is that she caught hold of the complainant from her hairs. The other accused were not summoned by the trial Court in absence of any evidence with regard to the allegations made against them. The trial Court duly dealt with the arguments raised on behalf of the petitioner.

As per the MLR dated 25.5.2010, there was only one injury and CW-6 Dr. Vijay Mittal had disclosed the fracture as second injury. But the complainant has nowhere stated that the accused have caused injury on her wrist also. Therefore, there was difference between medical evidence and ocular version.

Moreover, apart from the allegations levelled against Gurdas Singh, respondent no.1 and Meeta @ Charanjit Kaur, respondent no.3, neither any specific allegation has been levelled against the other accused-respondents nor any specific attribution has been made against them. Therefore, the learned trial Court has rightly summoned respondents no.1 and 3 only. Thus, I do not find any infirmity or illegality in the impugned orders.

Therefore, no interference is warranted into the impugned orders passed by the Courts below.

The petition is dismissed.

January 14, 2016  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**