

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-36550-2014 (O&M)
Date of decision: May 25, 2016

Devidayal @ Kala and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Naveen Mandhare, Advocate for
Mr. Pankaj Bali, Advocate for the petitioner.
Mr. Arun Luthra, AAG, Haryana.
Mr. Parminder Singh, Advocate for the complainant.

Rajan Gupta, J.

The petitioner has impugned order dated 7.5.2014 (Annexure P-10), passed by Judicial Magistrate 1st Class, Karnal as well as order dated 10.10.2014 (Annexure P-11), passed by Additional Sessions Judge, Karnal, whereby offence under section 307 IPC has been added and case committed to the court of Sessions, in FIR No.141 dated 5.3.2012, registered at Police Station Sadar, Karnal.

Learned counsel for the petitioner has contended that no ground is made out to amend the charge as the evidence of doctor examined in the case does not prove ingredients of Section 307 IPC. Moreover, there is no surgeon's opinion on record showing that injury is dangerous to life. Thus, the orders passed by the courts below are liable to be set-aside. He has relied upon judgment rendered in ***Pasupuleti Siva Ramakrishna Rao vs. State of Andhre Pradesh and others, 2014 (2) R.C.R. (Criminal) 129.***

I have heard learned counsel for the parties and given careful

thought to the facts of the case.

FIR was registered against the accused on the statement of Arvind Kumar, who alleged that on the fateful day, his wife Champa Rani was standing in the street, when Devi Dayal @ Kala came in the street and started staring his wife with bad intention. He tried to restrain him from doing so, but Devi Dayal started abusing him. At that time, his brother Vikram and wife Santosh also came there and they started beating the complainant with fists and blows. He raised noise and his son Vivek came at the spot. Thereafter, Devi Dayal also gave a sword blow on the left side of his cheek. Investigating agency thereafter filed challan. On 13.01.2014, complainant filed an application under sections 216/209 Cr.P.C. for amendment of charge. It was alleged that complainant was attacked with a sword which was borne out from cut mark on his cheek. The Magistrate, thus, added Section 307 IPC in the FIR and committed the case to the competent court for trial. Stand of the State is that out of eighteen witnesses cited by it, seven have been examined. I am of the considered view that no interference in inherent jurisdiction is called for. Plea is primarily factual in nature. Same can only be examined after some evidence is led before the court below. Besides, trial has made considerable headway. The judgment in *Pasupuleti's case (supra)* cannot help the case of the petitioner as facts of said case are different. The petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

May 25, 2016
'Rajpal'