

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

CRR No.2777 of 2016 (O&M).
Decided on:-31.08.2016.

Jaidev.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Varun Gupta, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against order dated 28.4.2016 passed by learned Chief Judicial Magistrate, Narnaul whereby the application under Section 173 (8) Cr.PC filed by the petitioner-complainant has been dismissed.

Briefly stated, FIR No.294 dated 14.7.2015 under Sections 323, 325 and 506 read with Section 34 IPC was registered at Police Station City Narnaul, District Mahendergarh on the basis of complaint made by the petitioner. As per the FIR, accused Babli wife of Kalu Ram son of Bhagi Rath Saini, resident of Rasoolpur is not of good character and daily unknown persons come to her. Accused Kalu Ram has grudge against the complainant and sometime earlier to this incident, Babli wife of Kalu Ram has given threat to the complainant. On 31.5.2015, when the complainant

had gone to his work place, at 3.00 p.m. and when he crossed the house of Kalu Ram, 3-4 persons along with Kalu Ram and his wife Babli starred at the complainant. When the complainant after finishing his work was coming to his house and crossed the house of Kalu Ram, he starred at the complainant from his roof. Kalu Ram came downstairs immediately and gave beating to the complainant with a Danda on his left eye. Babli wife of Kalu Ram along with 3-4 persons who were holding the rod and Danda in their hands had also given beating to the complainant mercilessly. The complainant was taken to the Government Hospital and thereafter, was referred to higher centre. However, for his satisfaction, he had gone to SMS, Jaipur where he was admitted and got treatment.

Learned counsel for the petitioner has argued that earlier, the petitioner had approached this Court by way of **CRM-M-7625 of 2016** titled as ***Jaidev Versus State of Haryana and others*** requesting the Court for issuance of a direction for further investigation under Section 173(8) Cr.PC and to obtain the expert's opinion regarding the injury. He states that being dangerous to life, offence under Section 307 IPC is attracted in the case, but learned Magistrate has not passed a clear cut order. Said petition was disposed of by this Court on 3.3.2016 with a direction to the Chief Judicial Magistrate, Narnaul to pass a clear cut order whether further investigation to be ordered or not, as requested by the complainant in his application under Section 173(8) Cr.PC.

Learned counsel for the petitioner has further contended that after the incident, the complainant was shifted to Government Hospital, Narnaul where MLR was conducted and due to seriousness of the patient,

the doctor had referred him to the higher centre. Thereafter, the complainant had gone to SMS, Jaipur where he was admitted on 1.6.2015 and was discharged on 5.6.2015. The MRI test of the complainant was also conducted in PGIMS, Rohtak in which it has been reported "*same fracture depressed and comminuted of left fronto parietal bone*". He has further argued that when the report shows the fracture in left fronto parietal bone, the injury is dangerous to life, but the investigating officer has not made out a case under Section 307 IPC.

Learned counsel for the petitioner has further submitted that in view of the order passed by this Court on 3.3.2016, the opinion of the expert of Neurology Department was required. But, while not doing so, the very order dated 3.3.2016 passed by this Court has not been complied with.

I have heard learned counsel for the petitioner.

Perusal of the paper book shows that Dr. Ajitesh Kumar had prepared the medico-legal report of the injured-complainant on 1.6.2015 and vide letter dated 20.6.2015, he sought guidance for arriving at a correct opinion regarding the nature of injury. On 22.6.2015, Dr. Ajitesh Kumar had reported that the case was discussed with Civil Surgeon and he had advised for a fresh physical examination of the patient as well as x-ray of the skull and attestation from concerned radiologist of reports. As the post of radiologist was lying vacant in Civil Hospital, Narnaul, the complainant was referred to PGIMS, Rohtak. Accordingly, Dr. Ajitesh Kumar along with x-ray, MLR and the injured reached PGIMS, Rohtak. On 28.7.2015, Dr. Ajitesh Kumar had opined that in consultation with Dr. Seema,

Department of Radiology, PGIMS, Rohtak, injury No.1 mentioned in the MLR was grievous and may not be dangerous to life.

The contention of learned counsel for the petitioner that the expert has not been consulted or it is only the doctor of Neurology Department who can be treated as an expert, cannot be accepted as the x-ray of skull and NCCT films are required to be examined by the Radiology Department.

In view of the above, this Court does not find any illegality in the impugned order dated 28.4.2016 passed by learned Chief Judicial Magistrate, Narnaul. Therefore, affirming the same, the present revision petition, being devoid of any merit, is dismissed.

August 31, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No