

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

CRR No.340 of 2016 (O&M).
Decided on:-28.01.2016.

Darshna.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Amit Dhawan, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

Petitioner Darshna wife of late Sudesh Kumar resident of village Jandiala, Patti Dhunni Ke, District Jalandhar has filed the present revision petition against order dated 20.10.2015 passed by learned Additional Sessions Judge, Jalandhar whereby the Court has not charged respondents No.2 and 3, namely, Prince Dhingra and his wife Angel Dhingra for commission of offence under Section 307 IPC.

Briefly stated, an FIR No.356 dated 20.12.2013 under Sections 307 and 452 read with Section 34 IPC was registered at Police Station Sadar

District Jalandhar against respondents No.2 and 3. As per the allegations in the FIR, the accused-respondents No.2 and 3 entered into the house of the petitioner-complainant at about 6.30 p.m. carrying a yellow coloured plastic-can filled with liquid. While respondent No.3 caught hold the complainant from her arms, respondent No.2 tied her mouth and sprinkled petrol on her arms. Meanwhile, son of the complainant, namely, Deepak Dhingra came there and on seeing him, respondents No.2 and 3 ran away from the spot. It is in these circumstances, the aforesaid FIR was registered.

Learned counsel for the petitioner has argued that dispute is between the mother on the one side and son and daughter-in-law on the other side. Taking into consideration the nature of offence, learned Magistrate has committed the case to the Court of Session. However, learned Additional Sessions Judge has not charged respondents No.2 and 3 for the offence under Section 307 IPC, the offence which is triable by the Court of Session. Learned Additional Sessions Judge has completely overlooked the fact as well as the intention of respondents No.2 and 3 who did their best to kill the petitioner as they sprinkled petrol on her after entering into her house. Therefore, intention on the part of respondents No.2 and 3-accused to kill the complainant is clear and, therefore, they are liable to be prosecuted under Section 307 IPC.

I have heard learned counsel for the petitioner.

A bare perusal of the contents of FIR as well as the order passed

by learned Additional Sessions Judge clearly indicates that in the case in hand, the petitioner-complainant has nowhere stated that either of the accused were carrying a match-box or a lighter or they tried to set her on fire.

Further more, the complainant has neither alleged nor proved that any attempt was made by the respondents-accused to set her on fire. In order to invoke Section 307 IPC, an attempt is necessary to cause such like body injury. Provision of Section 307 IPC is reproduced as under:

***“307. Attempt to murder:-** Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.”*

Taking into consideration the fact that an attempt to set the petitioner-complainant on fire, which is a must ingredient to invoke Section 307 IPC, is not made out, coupled with the fact that the complainant has neither alleged nor proved any attempt that the accused had set her on fire, the ingredients of Section 307 IPC are not made out.

In view of the above, this Court does not find any illegality in the impugned order dated 20.10.2015 passed by learned Additional Sessions

Judge, Jalandhar whereby respondents No.2 and 3 have not been charged under Section 307 IPC. As such, affirming the same, the present appeal, being devoid of any merit, is dismissed.

January 28, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**