

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

**CRR No.1358 of 2012 (O&M)
Date of Decision: December 18, 2017**

Parmeshwari

...Petitioner

VERSUS

Neelam Kakkar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashit Malik, Advocate
for the petitioner.

Mr.Ashwani Talwar, Advocate
for the respondent.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Parmeshwari against respondent Neelam Kakkar, challenging the impugned judgment dated 21.11.2011 passed by learned Sessions Judge, Kaithal, vide which revision filed by the accused-respondent challenging the summoning order dated 29.01.2009 passed by learned Addl. Chief Judicial Magistrate, Kaithal, was allowed.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that a complaint was filed by Parmeshwari against Harpal Singh, Satish, Roshni and Dr.Neelam Kakkar under Sections 323, 324, 325, 326, 506, 166, 167, 34 and 218 IPC. The brief averments of the complaint as noted down by learned ACJM, Kaithal,

in the summoning order, are as under:-

“The complainant has filed the present complaint against the accused on the allegations that Sheru, accused No.1 to 3 are having agriculture land adjoining to the land of complainant's family. Accused No.1 on various occasion tried to encroach upon the land of the complainant's family but due to timely intervention of complainant the attempt of the accused was foiled. On 27.07.2008 at about 7:00 am, the complainant had gone to her fields for cutting grass. Accused No.1 to 3 were already present in their fields. At about 9:00 am, the son of the complainant Rajesh visited at the fields for serving breakfast to the complainant and when the complainant started taking breakfast, in the meantime, accused No.1 started digging the path belonging to the complainant. The complainant objected this act, but accused No.1 did not bother about the request of the complainant, rather, started abusing the complainant and her son Rajesh. When Rajesh asked them not to abuse his mother, accused No.1 replied that 'Teri Ma Jaisi Gundi Bahut Dekhi Hai' and gave lalkara 'Iss Gundi ko aaj khatam kar do'. Accused No.3 caught hold the complainant from her hairs and dragged her. Accused No.2 gave lathi blow on the arm and left thigh of the complainant and when the son of the complainant Rajesh tried to save his mother, accused No.1 gave a kassi blow on his head but Rajesh immediately raised his hands to save himself and sharp edged kassi blow hit on the middle finger of his left hand. Both complainant and her son save themselves by escaping from the spot. Complainant called her husband and then visited at Civil Hospital, Kaithal along with her son Rajesh for medical examination. Accused no.1 to 3 were already present there Complainant narrated the whole incident to accused No.4, but accused No.4 in collusion with accused No.1 intentionally prepare incorrect MLR of Rajesh to the extent of nature of weapon used as blunt instead of sharp. Complainant and Rajesh were also x-rayed at Civil Hospital, Kaithal under the supervision of accused No.4, but accused No.4, in collusion with accused No.1 intentionally prepare incorrect MLR of Rajesh to the extent of nature of weapon used as blunt instead of sharp. Complainant and Rajesh were also x-rayed at Civil Hospital, Kaithal under the supervision of accused No.4, but she intentionally did not disclose about the fractures of complainant and Rajesh. Just to save accused No.1 to 3, accused No.4 did not mention in original register of the report of x-ray of patient regarding fracture of the complainant and Rajesh. Police has also visited at Civil Hospital, Kaithal and the complainant narrated the whole incident to the police. Police official took thumb impression and signatures of the complainant and Rajesh on blank papers and assured to lodge FIR against the accused. However, police in collusion with accused No.1 did not take action. Complainant and her son was also treated at New Holy Family Hospital, Kaithal. Complainant and her husband several times

visited at Civil Hospital, Kaithal for getting MLRs from accused No.4 but every time accused No.4 refused to give the copies of the same. Later on complainant through her husband submitted an application to the SDM, Kaithal for giving directions to C.M.O. Kaithal to deliver copies of MLRs of complainant and Rajesh. The complainant again and again visited at police post Titram and police station Sadar for lodging FIR against the accused persons but no action was taken. Hence, this complaint.”

In preliminary evidence, the complainant examined herself as CW-1 and CW-2 Rajesh and relied upon certain documents. On the basis of preliminary evidence, learned ACJM, Kaithal, vide order dated 29.01.2009, summoned other accused under Sections 323, 325, 506 and 34 IPC, whereas summoned Dr. Neelam Kakkar under Sections 166, 167 and 218 IPC. A revision was filed by Dr. Neelam Kakkar before Court of Session and learned Sessions Judge, Kaithal, vide impugned judgment dated 21.11.2011, accepted the revision and set aside the summoning order dated 29.01.2009 qua Dr. Neelam Kakkar.

Aggrieved from the impugned judgment dated 21.11.2011 passed by learned Sessions Judge, Kaithal, present revision petition has been filed by the petitioner-complainant, which is her first revision.

From the record, I find that the allegations against the respondent-Dr. Neelam Kakkar is that she had intentionally given the opinion showing the weapon as blunt in the MLR regarding the injury on the middle finger of Rajesh and she has not referred X-ray and prepared incorrect MLR. It is also stated that Dr. Neelam Kakkar has connived and in collusion with other accused, has given the wrong report, whereas X-ray of Rajesh was got conducted and a fracture was found in the finger.

The perusal of the record shows that the doctor has prepared

the MLR and has given the opinion while discharging her official duties. Furthermore, as per MLR, the injury was stated to be lacerated wound, which can be caused only with blunt weapon. As respondent-Dr.Neelam Kakkar has given the opinion in performance of her official duties, therefore, sanction under Section 197 Cr.P.C. is necessary. Nothing has been argued by learned counsel for the petitioner to show that sanction is not necessary.

Learned Sessions Judge, Kaithal, has also discussed that as per Ex.C3, one lacerated wound on middle finger was noticed and the doctor has stated that it was caused by the blunt weapon and no X-ray was advised for that injury. However, vide MLR Ex.C1, the complainant Parmeshwari was medico legally examined and a diffused swelling on the wrist joint along with complaint of pain on left thigh were noticed and X-ray for injury No.1 on the person of complainant was advised. In no way, it can be held at this stage, on the face of it, that Dr.Neelam Kakkar has committed any malafide act or connived with other accused.

In view of the above discussion, I find that the findings given by learned Sessions Judge, Kaithal in the impugned judgment dated 21.11.2011 are correct and as per law and summoning order has rightly been set aside qua Dr.Neelam Kakkar.

Therefore, finding no merit in the present revision petition, the same is dismissed.

December 18, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No