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

**CRM-M No.4947 of 2017
Date of Decision: 17.02.2017**

KULWANT KAUR

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Anju Arora Advocate with
Ms. Aditi Girdhar, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 04.11.2016 passed by the Sub-Divisional Judicial Magistrate, Gurusahai and order dated 13.12.2016 passed by Additional Sessions Judge, Ferozepur being illegal and erroneous.

[2]. The prosecution story started with the allegations that on 08.06.2013, when the petitioner and her father were looking after their field, then Darshal Lal along with Pyare Lal, Jamuna Devi, Agyawanti, Parbati, Sonu and Deepu came there and inflicted injuries to them. Petitioner got the FIR No.116 registered on 10.06.2013 for the offences under Section 323, 148, 149 IPC at P.S. Gurusahai. Later on one Parbati got her

statement recorded vide DDR No.41 dated 12.06.2013 out of the same incident, mentioning the complicity of the petitioner viz-a-viz. the injuries on the person of Parbati wife of Pyare Lal and Agyawanti wife of Darshan Lal.

[3]. At one point of time, petitioner approached this Court by filing CRM-M No.29652 of 2013 which was disposed of by giving direction to the respondent No.2 to conclude the investigation within a time frame manner and in case the petitioner makes an approach for grant of security, that request will also be entertained in accordance with law.

[4]. The matter was got investigated and the police submitted challan against the petitioner under Sections 323, 148, 149 IPC and the offences under Sections 325, 326 IPC were removed as no such grievous injuries were found on the person of Parbati and Agyawanti. The injuries on the person of aforesaid injured were alleged to be self-suffered or by friendly hand. Charges were framed under Sections 323, 148, 149 IPC on 05.09.2014.

[5]. Learned counsel for the petitioner submitted that after a period of about 2 years 6 months, an application was filed by the respondent under Section 216 Cr.P.C., for alteration of charge i.e. for addition of offences under Sections 325, 326 IPC on the ground that the injuries on the person of Parbati i.e. injury

No.3 was caused with sharp-edged weapon and was declared grievous in pursuance of X-ray report No.MLX/52SK/69/13 dated 15.06.2013 and similarly the injury No.5 on the person of Agyawanti was caused with blunt weapon and the same was found to be grievous in nature in pursuance of X-ray report vide MLX/48/SK/65/13 dated 13.06.2013. The offences were found to be in existence and, therefore, offences under Sections 325, 326 IPC were included against the accused party, but while submitting challan against the accused-party, the aforesaid offences were deleted without any cogent basis, on the basis of opinion of the Doctor to the effect that the injuries could be self-inflicted and could be caused with friendly hand.

[6]. Apparently, in view of medical opinion given by the Doctor on 20.11.2013, it was observed that the reference was in the context of MLRs and X-Rays that injuries could be self-suffered and due to friendly hand or not, so that the case could be investigated further. The Doctor only opined that the possibility of friendly hand or self-suffered for the said injury as per MLR cannot be ruled out.

[7]. Learned counsel vehemently submitted that as per re-medical examination report, it was clear that the possibility of injuries being caused by friendly hand or being self-suffered cannot be ruled out and, therefore, the Police at the time of filing

challan rightly deleted the offences under Sections 325, 326 IPC.

[8]. Apparently the case was registered on the statement of Kulwant Kaur against the complainant-party under Sections 325, 148, 149 IPC. Thereafter as a cross-case vide DDR No.41 dated 12.06.2013 the case was registered on the statement of Parbati. After obtaining MLR, it was found that the offences under Sections 325, 326 IPC were made out against the accused persons, but on account of fresh report the said offences were deleted on the ground that possibility of these injuries being caused by friendly hand or self-suffered cannot be ruled out. Resultantly, offences were deleted and challan was presented under Sections 323, 148, 149 IPC. The offence in terms of Sections 325, 326 IPC were included as in the opinion of the trial Court, mere report of the Doctor regarding possibility of injuries being caused by friendly hand or self-suffered is not a ground to delete the offence under Sections 325 and 326 IPC. The Court has to take pragmatic view of the entire prosecution case and on the strength of strong evidence, Court can alter the charge at any stage.

[9]. In my considered opinion, the material on record viz. the MLR is suggestive of the fact that the Courts below have not committed any error of jurisdiction in altering the charge,

thereby adding offences under Sections 325 and 326 IPC. Both the parties would be at liberty to lead evidence. The power of the Court to alter charge on the basis of material would remain unfettered.

[10]. In view of above, no error of jurisdiction in the orders passed by the Courts below could be pointed out by learned counsel for the petitioner. Consequently, finding no error of jurisdiction, this revision petition is accordingly dismissed.

February 17, 2017

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No