

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

**230**

**CRR No.4516 of 2016.  
Date of Decision: 06.12.2017.**

Puran Singh

....Petitioner.

Versus

State of Haryana and others

....Respondents.

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**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

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**Present:** Mr. Deepender Singh, Advocate for the petitioner.

Mr. Vikas Chopra, Deputy Advocate General, Haryana.

Ms. Deepa Jain, Advocate, for  
Mr. Yash Dev Kaushik, Advocate for respondents No.2 to 6.

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**Ramendra Jain, J.(Oral)**

Through this revision petition, the complainant has assailed the order dated 09.09.2016 of the Additional Sessions Judge, Faridabad, discharging respondents No.2 to 6 under Section 307 of the Indian Penal Code (for short, 'IPC') and remanding the case to the Illaqa Magistrate for their trial under Section 326 IPC, holding that the offence under Section 307 IPC is not made out against them.

Learned counsel for the petitioner inter-alia contends that the treating doctor, considering the M.L.R. and discharge summary of injured Bachu Singh, has specifically opined that “injury to left leg and left elbow are grievous in nature and blunt injury-chest and injury to right leg with profuse bleeding and segmental fracture both bones, right leg with decreased oxygen saturation could be dangerous to life”, but despite that

learned Additional Sessions Judge, disagreeing with the said opinion, without any rhyme or reasons, discharged respondents No.2 to 6 for the offence under Section 307 IPC and sent the case to the Illaqa Magistrate for trial under Section 326 IPC wrongly and illegally.

On the other hand, learned counsel for respondents No.2 to 6, opposing the arguments of learned counsel for the petitioner, contends that none of the injuries suffered by Bachu Singh was on the vital part of his body. The doctor did not give any definite opinion qua the “grievous injuries” suffered by him that they were “dangerous to life”. Using the words “could” and “are” by the treating doctor shows that injuries suffered by Bachu Singh were, in fact, “not dangerous to life”. Even otherwise, all the injuries allegedly suffered by Bachu Singh are covered under the definition of “grievous hurt” envisaged under Section 320 IPC, therefore, the impugned order, being legal and valid, is liable to be upheld.

After giving my thoughtful consideration to the submissions made by both the sides, I find that the impugned order is completely illegal and deserves merits rejection for the reasons to follow:-

- (i) there was definite opinion of the doctor that injury suffered by Bachu Singh was “dangerous to life” may be considering the cumulative effect of all the injuries suffered by Bachu Singh on different parts of his body though may not be on his vital part coupled with decreased oxygen saturation, therefore, it was pre-mature for the Additional Sessions Judge, Faridabad to jump to the conclusion without any basis that the offence under Section 307 IPC was not made out without trial of respondents No.2 to 6 and examining the doctor.

(ii) More so, in case, after trial, the prosecution could not have been able to prove its case under Section 307 IPC, against the accused-respondents No.2 to 6, then their conviction under Section 326 IPC could have been recorded and thus, at the primarily stage, their non trial under Section 307 IPC is misconceived.

(iii) the opinion of the Additional Sessions Judge, in the impugned order, discharging respondents No.2 to 6 under Section 307 IPC, being not based on any document or evidence, is hypothetical.

Thus, in view of the above discussion, the petition is allowed.

The impugned order dated 09.09.2016 is set aside. The Additional Sessions Judge, Faridabad is directed to proceed with the trial calling the case back, in accordance with law.

**(RAMENDRA JAIN)**  
**JUDGE**

**06.12.2017**  
*jitender sharma*

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No