

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

CRR No.708 of 2016 (O&M)

Date of decision: 17.03.2017

Rana Verma

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. M.S. Sachdev, Advocate
for the petitioner.

Mr. Mikhail Kad, AAG, Punjab

Mr. K.S. Ahluwalia, Advocate
for respondent No.2.

REKHA MITTAL J.

The present petition directs challenge against order dated 30.11.2015 passed by the Additional Sessions Judge, Jalandhar whereby the petitioner has been charged for committing offence punishable under Sections 307, 323, 506, 406 and 498-A of the Indian Penal Code (in short 'IPC').

Counsel for the petitioner, at the outset, would submit that he confines his prayer only *qua* charge under Section 307 IPC. It is argued that taking into consideration statement of the complainant, medico legal report and x-ray report *qua* injury described at Sr. No.3 of the MLR, no offence under Section 307 IPC is made out against the petitioner, therefore, order passed by the trial Court framing charge under Section 307 IPC is liable to be set-aside. In addition, it is argued that in FIR No.190 dated 11.12.2014 registered at Police Station Division No.3, Jalandhar for offence under Sections 307, 323, 506, 406

and 498-A IPC, the complainant levelled allegations against several other family members of the petitioners namely Dina Nath, Darshna Rani and Sanjeev Verma but they were found innocent during investigation and challan was presented only against the petitioner. In support of his contention, he has referred to judgment of this Court ***“Gurmit Singh vs U.T. Chandigarh”*** 2003(1) RCR (Criminal) 535.

Counsel for the State assisted by Sh. K.S. Ahluwalia, Advocate for respondent No.2 has supported the impugned order with the submission that charge can be framed even on the basis of strong suspicion and at this stage, it is not within the domain of trial Court to examine if the materials on record would eventually lead to conviction of the accused or otherwise. In this context, reference has been made to judgment of Hon'ble the Supreme Court of India ***“State of M.P. vs Kashiram and others”***, 2009(1) RCR (Criminal) 956.

I have heard counsel for the parties and perused the paperbook.

To decide the controversy, it is necessary to refer to the relevant portion of the challan attributing role to the petitioner *qua* occurrence dated 29.11.2014, extracted hereunder:-

“.....Today on 29.11.2014 when I reached home from my college at 2:00 PM, my husband along with my mother-in-law – Darshna Rani, Jeth accused No.4 was already there. They started quarreling with me and threatened to append signatures on papers. When I raised alarm, my husband caught hold me from my hairs and detained me in a locked room and some heavy thing struck on my head and further threatened me that if I do not accept their demands they will finish me. Due to fear I appended

signatures on some blank papers. Thereafter, my Jeth tried to strangle my neck and my mother-in-law slapped on my face and gave fist blows. Even my husband gave kick blows on my chest and they tried to kill me. When I raised hue and cry they all fled away from the spot after taking papers bearing my signatures.”

The complainant has not attributed any blow much less an injury having been caused on her head by her husband. On the contrary, it has been mentioned that she was detained in a locked room and some heavy thing struck on her head.

Perusal of the medico legal report (Annexure P3) would reveal that injury No.3 on the head reads as follows:-

“3. C/o blows over head. No others s/o injury. Advise X-ray.”

As per the x-ray report of skull, no fracture was seen. A conjoint reading of statement of the complainant and documents of medical and x-ray examination, I find merit in contention of the petitioner that no *prima facie* case for committing offence punishable under Section 307 IPC is made out on the basis of alleged blow over head.

So far as the plea with regard to injury on neck, the said injury is scratch mark in front of neck, reddish in colour. This apart, injury on the neck has been attributed to elder brother of the petitioner and he has been declared innocent during investigation. Once the main accused to whom injury on the neck has been attributed is not there before the Court, the petitioner cannot be charged for any offence whatever in regard to injury on neck even with the aid of Section 34

IPC.

For the foregoing reasons, the petition is partly allowed, order passed by the trial Court framing charge under Section 307 IPC is set-aside.

Nothing stated hereinbefore shall be construed as an expression of opinion *qua* other offences charged against the petitioner.

(REKHA MITTAL)
JUDGE

17.03.2017
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No