

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45160-2018 (O&M)

Date of decision: 19.11.2018

Chhinder Pal

.....Petitioner

versus

Harbans Lal and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Anirudh Singh Shera, Advocate for the petitioner

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 5.4.2018 (Annexure P7) passed by learned Additional Sessions Judge, Fazilka, while exercising the revisional powers, vide which, order dated 16.8.2017 (Annexure P5) dismissing the complaint filed under Sections 307, 326, 324, 341, 427, 148, 149 IPC passed by learned Judicial Magistrate First Class, Fazilka, was upheld.

I have heard learned counsel for the petitioner and have also carefully gone through the file.

Complainant had claimed that due to some dispute they were called to the office of DSP, Fazilka on 5.4.2013 at 11.00 A.M. Complainant is relative of one Sandeep Kumar with whom there was dispute. Therefore, complainant accompanied by Sandeep Kumar as well as Kabal Singh were going on Bolero Mohindra bearing registration no.HR-99-MW(T) 0046 to the office of DSP via Ladhuka Mandi on 5.4.2013 at about 10.00 A.M. Near the shop of Amolak Singh Mistry, Harbans Lal accused having a Kaapa and his brother Nanak Chand having a handle of Spade along with

15/16 other unknown persons armed with weapons got stopped their Bolero car and pulled them out of the car. Harbans Lal gave a Kaapa blow on the left wrist of the complainant. Another Kaapa blow landed on the left little finger of the complainant. Nanak Chand gave a blow with the handle of spade on the left elbow and on the left leg of the complainant. Then Harbans Lal gave a Kaapa blow on the left arm of Kabal Singh and also on his back. All the remaining accused gave kick blows and slaps to the complainant. Complainant claimed that he lodged the DDR No.36 dated 5.4.2013 but no action was taken by the police officials. Thereafter, he filed Criminal Miscellaneous No.M-14552 of 2015 before this Court which was dismissed as withdrawn on 24.7.2015. Hence, the complaint was filed.

The trial Court after recording the preliminary evidence, dismissed the complaint inter alia on the ground that the incident is of 5.4.2013 but the complaint was filed on 18.3.2016/18.4.2016 i.e. after the delay of about three year.

Learned counsel for the petitioner has contended that DDR was recorded on the same date. He had filed Criminal Miscellaneous No.M-14552 of 2015 before this Court which was dismissed as withdrawn on 24.7.2015 and then he filed criminal complaint.

I am of the view that inordinate delay is there. After the occurrence took place on 5.4.2013, petitioner approached this Court only in the year 2015 and when his petition was dismissed, he filed the Criminal Complaint on 18.3.2016/18.4.2016. Order of High Court dismissing CRM-M-14552 of 2015 is not on file. Therefore, it cannot made out as to whether on which ground the CRM-M-14552 of 2015 was dismissed. Presumption is that it was dismissed on merits. That is why the original order was not

produced. Further, the trial Court has discussed the evidence. Harbans Lal was holding a Kaapa and Nanak Chand was holding a handle of Spade. The width of dimensions of injuries on the person of complaint is 0.5 cm. The trial Court was of the view that such dimensions of injuries with Kappa is not possible. Injury No.2 on the person of Kabal Singh is only a abrasion on the right scapula and cannot be inflicted with a handle of the spade. Similarly, dimension of injury No.1 on the person of Chhinder Pal Singh is 3.5 cm x 0.5 cm on the left hand, which is alleged to have been caused with Kaapa. The same reason applied for the same. Injury No.2 which is alleged to have been given with Kaapa is only complain of pain without any external mark of injury. Injuries Nos.3 and 4 are abrasions on the left forearm and left leg and cannot be given either with Kaapa or handle of the Spade.

The trial Court has also taken the view that the dispute was with Sandeep Kumar, who was present at the spot and no injury was caused to him.

I am of the view that the trial Court has taken one of the possible views when the complaint is delayed and reasons are not explained and the injuries are not corroborated by medical evidence. The trial Court was justified in dismissing the complaint at preliminary stage.

No ground to interfere in the orders of both the Courts below.

Resultantly, the present petition stands dismissed.

19.11.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No