

CRM-M-12307 of 2014

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

CRM-M-12307 of 2014
Date of Decision: 13.02.2019

Mithu Lal

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Ms. Isha Goyal, Advocate, for the petitioner.
Mr. Amandeep S. Gill, DAG, Punjab.
Ms. Sonia Rani, Advocate,
for Mr. Rajbir Singh, Advocate, for respondents No.2 to 7.

RAMENDRA JAIN, J. (ORAL)

Complainant through instant petition under Section 482 Cr.P.C. has assailed order dated 22.03.2014 (Annexure P-16) of the trial Court, whereby his application under Section 216 Cr.P.C. for adding charge against private respondents under Section 307 IPC, was rejected.

Briefly, complainant lodged FIR No.145 dated 30.08.2009 at Police Station Dirba, District Sangrur, against respondents No.2 to 7 under Sections 452, 323, 506, 148 and 149 IPC. Section 307 IPC was added later on. During investigation, police did not find any injury upon the person of complainant as dangerous to life. Therefore, it, by deleting Section 307 IPC, filed final report under Section 173(2) Cr.P.C. under Sections 452, 323, 506, 148 and 149 IPC. Thereafter, petitioner moved application under Section 209 read with Section 193 Cr.P.C. for committing the case to the Court of Sessions, which was dismissed by the

CRM-M-12307 of 2014

trial Court vide order dated 10.07.2010. Private respondents were charge-sheeted under Sections 452, 323, 506, 148 and 149 IPC vide order dated 13.09.2010. During the pendency of trial, petitioner-complainant moved application under Section 216 Cr.P.C. for addition of charge under Section 307 IPC, which after hearing both the sides, was dismissed by the trial Court vide impugned order dated 22.03.2014.

Learned counsel for the petitioner *inter alia* contends that to justify conviction under Section 307 IPC it is not essential that bodily injury capable of causing death should have been inflicted. In the instant case, trial Court failed to appreciate that private respondents had caused two injuries on the head of complainant which could be fatal, but for prompt medical aid. In support of her contentions, learned counsel for the petitioner placed reliance on the judgments of the Hon'ble Supreme Court in ***Girija Shankar v. State of U.P.***, 2004(1) R.C.R.(Criminal) 839 and ***State of M.P. v. Saleem alias Chamaru and another***, (2005) 5 SCC 554.

On the other hand, learned counsel for private respondents, pleading the legality and validity of the impugned order, contends that both the head injuries allegedly suffered by the petitioner-complainant were caused with sticks, which were opined by the medical officer “not dangerous to life”.

Having given thoughtful consideration to the rival contentions, this Court finds that the instant petition is completely devoid of any merit for the reasons to follow.

Impugned order is perfectly legal inasmuch as as per medical opinion, none of the injuries allegedly suffered by the petitioner-complainant on his head was bleeding from brain. Petitioner-complainant

CRM-M-12307 of 2014

was fully conscious at the time of his medico-legal examination. Even there was no persistent vomiting to the complainant. Based on the above condition of the petitioner-complainant, medical officer had opined that none of the injuries on the head of the complainant was “dangerous to life” being simple in nature. Abovesaid medical opinion cannot be brushed aside simply to satisfy the whims and fantasies of the petitioner-complainant inasmuch as petitioner-complainant shall get an opportunity to rebut the evidence so to be led by the prosecution by producing some medical opinion favouring him. Petitioner-complainant did not produce any medical evidence in support of his contention that private respondents were liable to be charge-sheeted under Section 307 IPC.

It is pertinent to mention here that petitioner-complainant with *mala fide* intention to put the private respondents on trial under Section 307 IPC initially moved application under Section 216 Cr.P.C., but when he did not succeed, he moved another application under Section 311 Cr.P.C. and succeeded in obtaining subsequent medical opinion. However, the Revisional Court set aside the order of the trial Court in this respect.

On account of stay being granted by this Court, trial is held up unnecessarily since 2014, which, otherwise, could have been finalised after affording opportunity of hearing to the petitioner to lead medical evidence in support of his assertion in defence.

Facts and circumstances of the authorities referred to by learned counsel for the petitioner are altogether different from the facts of the present case. Therefore, no benefit of the same can be given to the petitioner.

CRM-M-12307 of 2014

In view of discussion made above, instant petition is dismissed being devoid of any merit.

February 13, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No