

CRM-M-4801 of 2017

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

CRM-M-4801 of 2017
Date of Decision: 26.02.2019

Jatin Anand

....Petitioner

Versus

Pooja Verma and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sanjay Verma, Advocate, for
Mr. Pankaj Bhardwaj, Advocate, for the petitioner.
Mr. Subhash Godara, Advocate,
for Mr. S.S. Dinarpur, Advocate, for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through instant petition under Section 482 Cr.P.C. prayer has been made for setting aside order dated 30.01.2017 of the Revisional Court, whereby it affirmed the order of trial Court dated 08.11.2016, discharging respondent No.5 of all the charges under Sections 323, 504 and 506 IPC.

At the outset, it is pertinent to mention here that vide order dated 20.03.2017, this petition qua discharge of respondent No.5 under Sections 323, 325, 504, 506 IPC has already been dismissed.

Briefly, petitioner filed private complaint against the respondents, who are none else, but his wife, parents-in-law, brother-in-law and sister-in-law, under Sections 323, 325, 504 and 506 IPC on the allegations that on 20.12.2010, they assaulted and caused injuries,

including grievous one to the petitioner and his parents.

CRM-M-4801 of 2017

After recording preliminary evidence, though the trial Court summoned the respondents to face trial under Sections 323, 325, 504, 506 IPC, but at the time of consideration on charge, discharged them under Section 325 IPC and respondent No.5 completely under all the charges on the ground that no specific role has been attributed to respondent No.5. Only allegation against her was that she was present on the spot. The occurrence was the result of temperamental differences amongst the parties and levelling of allegations and counter-allegations against each other.

Being aggrieved, petitioner approached the Appellate Court, but remained unsuccessful as his appeal too was dismissed vide impugned order.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that due to injuries caused by the respondents, two teeth of the petitioner were uprooted. Medical opinion, relying on which both the Courts below have discharged the respondents under Section 325 IPC and respondent No.5 completely was not definite medical opinion that teeth of the petitioner were already missing, earlier to the occurrence. Therefore, respondents on the basis of surmises and conjectures have wrongly been discharged as above.

On the other hand, learned counsel for the respondents, refuting above submissions, pleading the legality and validity of impugned orders of both the Courts below, contends that Dental Surgeon Dr. Ashwani Kumar as CW3 has specifically opined that there was no extra oral sign of injury present on the lips or jaws of the petitioner. There was no bone

injury. As per x-ray report, it was apparent on the record that no teeth of the petitioner had broken in the impugned incident.

CRM-M-4801 of 2017

Having given thoughtful consideration to the rival submissions, this Court finds that the instant petition merits acceptance for the reasons to follow.

There is no medical opinion in specific words that teeth of the petitioner had uprooted prior in time to the date of incident. At the time of medico-legal examination of the petitioner, he had complained of missing of two teeth in lower jaw. Therefore, it was obligatory on the part of the treating doctor to opine specifically as to whether complaint of missing teeth of the petitioner was genuine or false.

In the MLR (Annexure P-3), clotted blood was found in the socket i.e. jaw of the petitioner. Even labial cortical plate of socket was also found fractured with tender on percussion. Since there was no definite medical opinion about missing teeth of the petitioner, therefore, instead of discharging the respondents at the threshold, the trial Court ought to have charge-sheeted them under Section 325 IPC, but after trial, if there would not have any evidence against them in this respect, they could have been acquitted.

In view of discussion made above, petition is allowed. Impugned orders of both the Courts below are set aside. Trial Court is directed to charge-sheet respondents No.1 to 4 under Section 325 IPC and proceed with the trial.

However, anything observed hereinabove shall not affect the merits of the case.

February 26, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No