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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9822-2016 [O&M]

Date of Decision : January 24, 2019

Parkashvir

.... Petitioner

Versus

Ravinder and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Shiv Kumar, Advocate,
for the petitioner.

Mr. Suryakant Gupta, Advocate,
for the respondents.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for quashing of order dated 10.08.2015 (Annexure P/6) passed by learned Additional Sessions Judge, Faridabad whereby revision petition filed by the petitioner against the order dated 2.7.2015 (Annexure P/4) passed by learned Judicial Magistrate Ist Class, Faridabad whereby respondents have been charge sheeted under Sections 323/506 IPC only in criminal complaint No. 247 dated 8.11.2007, was dismissed,

2. Facts relevant for the purpose of decision of the present petition; that complaint under Section 323, 365 and 506 IPC was filed on 12.10.2007 by the petitioner on the allegation that the complainant was present near the gate of HUDA office, Faridabad. His motorcycle was

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parked over there. Meanwhile, Ravinder stepped down from a vehicle and gave beatings to the petitioner with kick and fist blows. Meanwhile, respondent No.2, Rishi also reached there and both of them gave beatings to the complainant. The complainant was saved by Vinod and Lala Ram. However, while leaving the place of occurrence, accused persons threatened the complainant to kill him at appropriate time. Complainant was taken to hospital and the matter was reported to the police.

3. On filing of the complaint, learned Magistrate framed charges against accused persons under Section 323 and 506 IPC only vide order dated 2.7.2015 (Annexure P/4).

4. Dissatisfied with the aforesaid order whereby charges were framed under Sections 323/506 IPC only, revision petition was filed and the same was dismissed by learned Additional Sessions Judge, Faridabad vide order dated 10.08.2015 (Annexure P/6) and the present petition is challenge to the same.

5. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that learned Additional Sessions Judge has rightly observed in its order that initially complaint was made to the police on 5.11.2007 and the complaint was filed before the Court below on 8.11.2007. Preliminary evidence was recorded. At that stage, statement of Dr. Y.P. Singh (CW-4) was also recorded and the report Ex. CW-4/1 was also available with the doctor. At that stage, there was no averment in the complaint that any grievous injury was caused on the ear. Thereafter, the said witness appeared on 15.12.2014 and came with entirely different version and made statement that injury No.1 was grievous in nature and again he relied upon his report Ex. CW-4/A.

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Statement of Dr. Ram Bhagat was also recorded who had given opinion that injuries No. 2 and 4 were simple in nature.

6. Needless to say that Ex. CW-4/A was a photocopy only and learned trial Magistrate as well as learned Revisional Court had rightly observed that if it was a case of grievous injury, there was no reason for the complainant not to mention so in the complaint having been made before the police and before the Court and subsequently while deposing before the Court as a witness. Even the Medical Officer, Dr. Y.P.Singh, CW-4, who earlier had appeared before the Court in preliminary evidence, had not stated so and the Court below cannot ignore this fact while framing the charge and learned trial Judge has rightly considered this aspect while passing the order dated 2.7.2015 (Annexure P/4) and the said order has been rightly upheld by learned Additional Sessions Judge, Faridabad vide order dated 10.08.2015 (Annexure P/6).

7. As such, present petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

January 24, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes