

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

CRR No. 4790 of 2016 (O&M)

Date of decision: 04.04.2019

Haider Ali

...Petitioner

Versus

Aasam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Saleem Ahmed, Advocate
for the petitioner.

Ms. Sunita Gupta, Advocate for
Mohd. Arshad, Advocate
for the respondents.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting aside the order dated 13.10.2016, passed by the Additional Sessions Judge, Mewat, vide which, the trial Court has framed charge under Sections 148, 323, 325 and 506 read with 149 of the IPC and simultaneously has discharged the accused from the charges under Sections 307 and 341 of the IPC.

Learned counsel for the petitioner submits that the trial Court has wrongly formed an opinion that there is no evidence on record that prima facie offence punishable under Section 307 IPC is made out.

Learned counsel for the petitioner has relied upon the report of CT Scan (Head) dated 03.11.2015 of injured/victim Asar Khan, issued by AIIMS, New Delhi, which reads as under:

“Impression:

Multiple haemorrhagic contusions in left basifrontal lobe and left temporal lobes with a thin SDH along with FTP lobe. Fracture squamous part of right temporal bone.

Dr. Surya Nandan Prasad”

Learned counsel for the petitioner has submitted that thereafter, the senior resident doctor has also given an opinion that injury No. 1, as stated in the MLC, is endangering the life of the patient.

Thus, learned counsel has argued that the trial Court has wrongly recorded a finding that prima facie offence punishable under Section 307 IPC is not made out.

Learned counsel for the respondent has referred to the order dated 19.08.2016, passed in CRM-M-24603-2016, granting anticipatory bail to one of the accused, namely Kasam, in which the similar observations were made that there is no fracture to the skull anywhere and there is no prima facie evidence that offence under Section 307 IPC is made out.

Learned State counsel, on instructions from ASI Naseem Akhtar, has also submitted that there is an opinion of the doctor that the injury, sustained by the victim, is dangerous to life.

After hearing learned counsel for the parties, I find merit in the present petition considering the fact that there is an opinion of the doctors that the injury caused to the victim was dangerous to his life.

Accordingly, this revision petition is allowed. Impugned order dated 13.10.2016, passed by the trial Court, is set aside and the matter is remanded back to trial Court for passing a fresh order in view of the

medical evidence available on record depicting the nature of injury and opinion of the doctor.

04.04.2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No