

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

CRR No.3322 of 2018
DATE OF DECISION : 27TH NOVEMBER, 2019

Surjit Kaur & others

.... Petitioners

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Kanhiya Soni, Advocate for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed under Section 401 Cr.P.C. challenging the order in the form of charge sheet dated 12.07.2018, whereby the petitioners have been chargesheeted in case FIR No.150 dated 09.10.2017 registered under Sections 341, 307, 323, 506, 186 & 353 IPC at Police Station Rahon, District S.B.S. Nagar.

It is contended by counsel for the petitioners that the charge has wrongly been framed against the petitioners. It is further contended by the counsel that the issue involved in the case is of civil nature. The parties are already in civil litigation qua the property, which is subject matter of the present criminal trial. On merits, it is submitted by the counsel that the injuries attributed to the petitioners are not sufficient to invite the charge under Section 307 IPC. It is further submitted that there is no recovery of any weapon from the petitioners. Hence, the charge could not have been framed against the petitioners under Section 307 IPC.

Having heard the counsel for the petitioners and having perused the case file, this court does not find any ground to interfere in the matter. Undisputedly, there has been litigation between the parties

regarding the land, which is stated to be reserved for cremation ground of the village; which now is stated to have merged with Municipal Committee, Rahon. However, wherever this kind of land goes, this shall remain reserved for cremation ground, unless the land use is changed by the competent authority and any alternate arrangement is made for the cremation ground. In the civil litigation itself, the petitioners have lost before the civil Court; as well as; before the lower appellate court. It is in execution of the decree passed by the civil court only that the complainant had gone; along with the revenue officials; to take possession of the land in question. However, the petitioners are alleged to have attacked the revenue officials as well as the complainant; and also some other persons. Therefore, the argument of the petitioners that the matter is civil in nature, cannot be accepted.

The argument of the petitioners that no weapon has been recovered, therefore, no offence under Section 307 IPC can be alleged against him, is not sustainable. It is well settled by now that recovery of weapon of offence is not the *sine qua non* for framing of the charge, particularly when there is injured eye witness; to depose during the trial. Similarly, the nature of the injury *per se*, is not sufficient to exclude the framing of the charge under Section 307 IPC. Rather, Section 307 IPC has something to do more with the intention of the assailant; and less with the actual injuries. Hence this court does not find any substance in the argument of the counsel for the petitioners; in this regard as well.

During the argument it has also come out that the evidence of the prosecution have, otherwise also, been completed. The case has already come at the stage of the defence evidence. Hence, at this stage it would not be appropriate to finally delve upon the validity of the charge under Section

307 IPC. Obviously, the trial court would see all the ingredients of the offence, before passing any order qua conviction of the petitioners for that Section, if any.

Accordingly, finding no merit in the present petition the same is dismissed.

27TH NOVEMBER, 2019
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>