

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 11134 of 2017

Date of Decision: 15.1.2020

Baljit Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S.Sidhu, Advocate
for the petitioners.

Mr. M.S.Nagra, AAG, Punjab.

Mr. Naveen Sharma, Advocate
for respondent No. 2.

HARNARESH SINGH GILL, J.

This petition has been filed challenging the order dated 8.2.2017 passed by the Revisional Court (Annexure P-10), vide which the application for amendment of charge has been allowed and direction has been issued to the learned Magistrate to adopt the further course in accordance with law by considering that offence under Section 307 IPC is *prima facie* attracted.

An application was moved by the complainant for amendment of charge stating that Ninder Singh accused gave kirpan blow to Harbachan Singh injured but no charge under Section 324 IPC was framed against accused Ninder Singh and his co-accused under Section 324 read with Section 34 IPC. Similarly Balvir Kaur also suffered injuries at the hands of accused Gurcharan Singh but no charge under Section 323 IPC was framed against him. Similarly Hakam Singh received seven injuries both grievous

and simple at the hands of Gurcharan Singh and Baljit Singh but no charge under Section 323 IPC was framed against them. The said application was dismissed by the trial Court vide order dated 10.10.2016 on the ground that the same has been moved to delay the proceedings of the case.

Aggrieved against the order dated 10.10.2016 passed by learned Magistrate, a revision was preferred by the complainant which was allowed vide the impugned order dated 8.2.2017 with the observation that *prima facie* Section 307 IPC is attracted.

I have heard the learned counsel for the parties and the learned counsel for the State.

In the present case, challan was filed under Sections 325, 324, 323, 34 IPC and charges were framed under the said Sections which order was never challenged. Thereafter, prosecution moved an application under Section 319 Cr.P.C. for summoning Gurcharan Singh and Ninder Singh to face trial as additional accused which was dismissed by the trial Court vide order dated 27.8.2014. Aggrieved against the said order, the complainant filed a revision petition which was allowed by the Revisional Court vide order dated 24.2.2015. Thereafter on 27.8.2015, charges were again framed under Sections 325, 324, 323, 34 IPC and the said order was never challenged.

In the impugned order dated 8.2.2017 (Annexure P-10), no change of circumstances has been pointed out as in the entire occurrence, there is only one injury i.e. blunt on the back and chest of Hakam Singh which was declared to be grievous in nature and falls under Section 325 IPC and the remaining injuries were simple in nature.

I have also gone through the statement of PW-1 Dr. R.P.Singh,

SMO, Community Health Centre, Nathana (Annexure P-6), who had conducted medico legally examination on Hakam Singh. He observed that injury No. (v) i.e. bruise back left side chest on the person of Hakam Singh was declared grievous in nature and the remaining injuries on the person of all the injured were declared simple in nature. Moreover, the said witness in his cross-examination stated that Hardev Singh-petitioner No. 2 received three injuries out of which injury No. 1 was sharp and injuries No. 2 and 3 were blunt.

Keeping in view the above, the present petition is allowed.

Order dated 8.2.2017 (Annexure P-10) passed by the Revisional Court is set aside.

(HARNARESH SINGH GILL)
JUDGE

January 15, 2020
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No