

CRM-M-2125 of 2015 (O&M)

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

CRM-M-2125 of 2015 (O&M)
Date of Decision: 12.02.2020

Ashok Kumar

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Sunny K. Singla, Advocate, for the petitioner.
Mr. Bhupender Beniwal, AAG, Punjab.
Mr. N.K. Verma, Advocate,
and Mr. Anoop Verma, Advocate, for respondents No.2 to 12.

RAMENDRA JAIN, J. (ORAL)

CRM-25216 of 2019

Through this application under Section 482 Cr.P.C., applicant-petitioner has sought permission to place on record final report under Section 173(2) Cr.P.C. as Annexure P-4.

Heard.

For the reasons mentioned in the application, same is allowed subject to all just exceptions. Copy of final report under Section 173(2) (Cr.P.C. is taken on record as (Annexure P-4).

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Complainant, through petition under Section 482 Cr.P.C., has assailed judgment dated 04.11.2014, whereby revisional Court, setting aside order of the trial Court dated 16.05.2014, chargesheeting respondents No.2

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to 12 (hereinafter referred to as “private respondents”) under Section 452 IPC, besides other Sections of the IPC, remanded case to the trial Court for fresh decision.

Briefly, petitioner lodged FIR No.145 dated 01.11.2013 against the private respondents under Sections 341, 323, 325, 427, 506, 201, 148 and 149 IPC at Police Station Ahmedgarh, District Sangrur, alleging that in the night of 29.10.2013 some of the respondents-accused caused injuries to his brother Roop Singh by calling him outside the wine shop. On the next day, private respondents after consuming liquor came to the shop of the petitioner and gave him slaps and fist blows in the presence of his uncle and 1/2 more persons. On tendering apology by the petitioner, assailants further entered the shop of uncle of the petitioner Bhajna Ram and broke articles in his shop. They also caused injuries to his uncle with deadly weapons like iron rods, swords etc. and broke T.V. lying there. Raising hue and cry by his uncle attracted petitioner and others. Thereafter, on noticing that people had started gathering, assailants ran away from the spot extending threats of dire consequences to the petitioner and his uncle.

After investigating the matter, police filed final report under Section 173(2) Cr.P.C. against private respondents under Sections 341, 323, 325, 325, 506, 201, 148 and 149 IPC. Pursuant thereto, trial Court finding a *prima facie* case, chargesheeted them under Sections 148, 452, 149, 325, 506, 201, 427 and 149 IPC vide order dated 16.05.2014.

Being aggrieved, private respondents approached the revisional Court, who vide impugned order dated 04.11.2014, setting aside the aforesaid order of the trial Court, remanded the case to trial Court to take

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fresh decision as to whether private respondents were liable to be chargesheeted under Section 452 IPC.

Learned counsel for the petitioner-complainant *inter alia* contends that words “house trespass” used in Section 452 IPC cannot be restricted to its literal meaning, rather it has a wide definition. “House trespass” not only includes a building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, but also includes office and police station. Private respondents caused injuries to uncle of the petitioner, trespassing his tea stall. Thus, they were rightly charge-sheeted by the trial Court under Section 452 IPC. In support of his arguments, learned counsel placed reliance on ***Pasupuleti Siva Ramakrishna Rao v. State of Andhra Pradesh and others*, 2014(2) R.C.R.(Criminal) 129 (S.C.)** and ***State of Karnataka, by Cantonment Railway P.S. v. Richard @ Aruldas and another*, 2008(3) ILR (Karnataka) 1352.**

Refuting above submissions, learned counsel for private respondents, relying upon judgment of the Delhi High Court in ***Seema Gupta v. State and others*, 2013(7) R.C.R.(Criminal) 180** and this Court in ***Suresh Kumar v. State of Haryana*, 2000(1) R.C.R.(Criminal) 50**, contends that alleged shop of uncle of the petitioner-complainant was a public place where anybody could enter. Thus, offence under Section 452 IPC against the private respondents was not attracted. Shop, in which private respondents enter, did not belong to the petitioner, rather he came there later on.

Having given thoughtful consideration to the rival submissions,

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this Court finds the instant petition merits acceptance for the reasons to follow.

Impugned judgment of the revisional Court is very sketchy and unreasoned. It has simply tried to hush up the issue, without caring its pious obligation and legal duty to deal with the controversy raised by private respondents before it in an effective manner by passing a well-reasoned order. The revisional Court failed to appreciate that it has more power and wisdom than the trial Court. It ought to have applied its own mind and take decision as to whether private respondents were rightly charge-sheeted under Section 452 IPC, instead of remanding the case. Thus, exercise adopted by the revisional Court in remand of the case to the trial Court is declared as illegal.

In *Pasupuleti Siva Ramakrishna Rao (supra)*, Hon'ble Supreme Court has held that Section 452 IPC does not suggest that the crime should be committed in the house only. In that case, accused had trespassed the office of the complainant. Treating it as a private place of the complainant, accused was held liable to be charge-sheeted and convicted under Section 452 read with Section 34 IPC.

In *Richard @ Aruldas and another (supra)*, Karnataka High Court held that even for a crime committed in a police station, accused should be charge-sheeted under Section 452 IPC.

Undisputedly, shop of uncle of the petitioner though was a tea stall, but was in his private occupation. It is not that private respondents went to his shop to take tea. Rather, they trespassed the same with an intent to cause injuries to Bhajna Ram, uncle of the petitioner, which, in view of

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judgment of the Hon'ble Supreme Court in ***Pasupuleti Siva Ramakrishna Rao (supra)***, can safely be termed as a “house trespass”.

Facts and circumstances of the case in ***Seema Gupta (supra)***, relied upon by learned counsel for private respondents, are altogether different from the facts of the present case. Therefore, no benefit of the same can be given to private respondents inasmuch as private respondents. In that case, the respondents entered into a school, which was not a dwelling unit. Before the matter came before the Delhi High Court, there were concurrent findings of two Courts below that school, where respondents had entered, was not covered under the definition of “house trespass”. Careful perusal of the said judgment shows that concurrent findings of two Courts below much weighed in the mind of the Delhi High Court. Thus, it did not feel necessary to deal with the matter for third time in petition under Article 227 of the Constitution of India read with Section 482 Cr.P.C. and dismissed the petition.

In ***Suresh Kumar (supra)***, accused went to the *paan* shop of the complainant to fetch two bottles of *khara soda*. The complainant refused to give the same without there being any security for return of empty bottles, whereupon accused took out a knife and gave a blow on the complainant and another. In these circumstances, it was held that accused was not liable to be charge-sheeted under Section 452 IPC. Whereas, in the instant case, as discussed above, private respondents did not trespass the shop of uncle of the petitioner-complainant with an intent to take tea or purchase any article. They went inside to cause injuries to him. Therefore, judgment in ***Suresh Kumar (supra)*** is also of no help to private

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respondents.

In view of discussion above, impugned order dated 04.11.2014 of the revisional Court is set aside and that of the trial Court dated 16.05.2014 is upheld.

Disposed.

However, nothing observed hereinabove shall be taken as an expression of opinion on the merits of the case.

February 12, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No