

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

**CRM-M-43209-2017 (O&M)
Date of decision: 13.01.2020**

Sandip Kumar @ Sunny

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. Vinod K. Kaushal, Advocate
for respondents No.2 to 4.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for setting aside the order dated 07.01.2017 (Annexure P-5) passed by the trial Court, vide which an application filed by the petitioner-complainant to add offence under Sections 307/308 IPC was dismissed as well as the order dated 05.08.2017 (Annexure P-6) passed by the Additional Sessions Judge, Amritsar, dismissing the revision petition filed by the petitioner against the aforesaid order of the trial Court (Annexure P-5).

At the very outset, it is worth noticing that vide order dated

16.01.2019, the petitioner was directed to appear before a Board of Doctors for his medical examination regarding the condition of his left eye. The report of the Medical Board reads as under: -

“... As per the history given by Sandeep Kumar, he had sustained injury on the left eye and had undergone medicolegal examination on 25/12/13. After reviewing the record, it is evidence that Sandeep Kumar had been medico-legally examined vide MLR No.HPA/28/13 dated 25/12/13 and two injuries were listed in MLR. Injury No.1 was kept under observation and eye surgeon opinion was advised. Later on, after receiving the eye surgeon opinion, injury No.1 was declared as grievous in nature by Medical Officer on duty. In Eye Surgeons record dated 25/12/13, following findings were recorded.

“There was history of Cataract surgery approximately 15 days before the injury. Left eye examination HM (Hand movements) +ve, Iris Prolapse superiorly with iridodialysis, Membrane in the pupillar area and B Scan was advised. On 28/12/13, repair of injury was done at Eye Department, Medical College, Amritsar and B Scan of Sandeep Kumar was done on 02/01/14 & revealed vitreous debris” (copy of old record attached)

On 11/02/19, board has examined Sandeep Kumar vide OPD No.7122/299 dated 11/02/19 and noted following findings.

Patient's left eye is aphakic i.e. loss of natural lens along with pigmentary membrane in the pupillary area and loss of iris tissue. There is one steel suture along with multipoel suture marks in the limbal area.

Fundus not properly visible due to pigmentary membrane in the pupillary area Media Clear, disc slightly pallor, Macula and other detail not properly visible. B Scan is conducted on 16/12/19 by Radiologist, Civil Hospital, Amritsar along with board member & show vitreous debris. Vision: hand movement +ve. Possibility of loss of vision caused by injury cannot be ruled out.

Enclosed: Photocopy of old record.

*Sd/-
Dr. Manveen Kaur
Medical Officer,
PHC, Verka*

*Sd/-
Dr. Chander Mohan
Medical Officer,
CH, Amritsar*

*Sd/-
Dr. Mona
Medical Officer
CH, Amritsar."*

Learned counsel for the parties are ad idem that in view of the above, the matter may be remanded back to the trial Court to pass a fresh order.

Accordingly, this petition is disposed of and the impugned orders dated 07.01.2017 (Annexure P-5) passed by the trial Court and dated 05.08.2017 (Annexure P-6) passed by the Additional Sessions Judge, Amritsar are set aside. The trial Court is directed to pass a fresh order, considering report of the Medical Board. However, it is clarified that the trial Court will form an independent opinion based on the Medical Board report,

in accordance with law.

Registry is directed to send a copy of report of the Medical Board to the trial Court.

The parties are directed to appear before the trial Court for re-framing of the charges.

[ARVIND SINGH SANGWAN]
JUDGE

13.01.2020
vishnu

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