

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

**CRM-M-5188-2017(O&M)
Date of decision:-4.2.2020**

Jaipal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.P.K. Ganga, Advocate
for the petitioner.

Ms.Harpreet Kaur, AAG, Haryana.

Mr.G.S. Sidhu, Advocate
for respondent No.2.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that complainant Jaipal son of Banwari Lal of Jaat community, resident of Bani No.1, Tehsil Rania, District Sirsa had brought a private complaint against the accused Gurcharan Singh,(J.E.) son of Sh.Dhan Singh (SDO Operation Sub Division), North, Dakshin Haryana Bijli Vitran Nigam Ltd. (hereinafter referred to as DHBVNL), Jeewan Nagar, Tehsil Rania, District Sirsa for the offences under Sections 323, 324, 325, 506 IPC, Police Station Rania.

As per the version of the complainant, he is an agriculturist having landed property in village Bani, District Sirsa; he has got

installed a tubewell in his agricultural land; there was a dispute regarding electricity connection to that tubewell; in that connection a case was registered against the complainant and his brother; the electric tubewell connection was disconnected; however, with the intervention of the Civil Court, it was ordered that the connection would be installed at the earlier place, where it was existing; on 13.4.2012, accused Gurcharan Singh, Junior Engineer, an officer of DHBVNL along with other officials of the said concern reached at tubewell of complainant; instead of installing the connection at the previous site as per the order passed by the Court, the accused started removing the pipe and other equipments to install the connection at different place; when the complainant objected to that, the accused became agitated and threatened to teach a lesson to him; in the scuffle between the complainant and the accused, the accused manhandled the complainant; the accused who was having a plyer (plaas) in his hand hit the complainant; the plyer hit the complainant on lips and teeth; his gold chain also got missing; hue and cry was raised; Mohan Lal and Sita Ram also reached on the spot; on observing them, accused started abusing the complainant and went away from the site; brother of the complainant had helped the complainant to take him to CHC, Rania, where he was medico legally examined; the complainant remained in the hospital from 13.4.2012 to 16.4.2012; the police visited the hospital and statement of the injured/complainant was got recorded.

It was assured that proper investigation in the case would be conducted. However, no action was taken by the police. Rather police had filed a cancellation report. On getting notice, the complainant

appeared and filed a protest petition alleging that there was sufficient evidence on record to proceed against the accused. Therefore, he be summoned for the offences punishable under Sections 323, 324, 325 and 506 IPC. The complainant led oral as well as documentary evidence. Learned Magistrate observing that there was sufficient evidence to proceed against the accused summoned him for the offences under Sections 323 and 325 IPC, however, he observed that prima facie no offence under Section 324 and 506 IPC was found against the accused. The accused put in appearance. Charges under Sections 323 and 325 IPC was framed.

The accused had felt aggrieved and he filed a revision petition before the Court of Sessions, which was accepted by learned Additional Sessions Judge, Sirsa vide order dated 31.1.2017. The reasoning given is contained in paras No.5 to 10 of the order, which for ready reference are being reproduced as under:

“5. After hearing the rival contentions of both the sides and also gone through the documents on record it came to light that in the report under Section 202 Cr.P.C. dated 27.2.2013 there is no mention of injury on the person of complainant rather in the report it is mentioned that an altercation had taken place between the revisionist and respondent and after that scuffle had also taken place. But in the report no specific injury with regard to fracture of teeth or breaking of teeth has been mentioned.

6. Further in the said report it has also come that a case bearing FIR no.280 of 2011 under Sections 332, 353,

186, 506 IPC at P.S. Rania is pending against the respondent Jaipal which has been got registered by SDO, DHBVNL and hence this Court finds force in the arguments advanced by the learned counsel for the revisionist that the present case in which the revisionist has been charge sheeted, is only a outcome of earlier litigation pending against said Jaipal and he has got registered the present case only to put pressure upon the authority to compromise in the said case.

7. Further on perusal of documents on record it is revealed that police has thoroughly investigated the matter from many persons and also recorded statement of witnesses and after that report under Section 202 Cr.P.C. was prepared in which the accused was found innocent.

8. It is further revealed after perusing the record that as per allegations of the complainant as set up in the complaint he objected the revisionist-Gurcharan Singh when he was working in the fields of the complainant/respondent. In the considered opinion of this Court complainant was having no right to create hindrance in the official working of the revisionist/accused, hence the act himself is not justifiable on the part of the complainant/respondent. It is also highly improbable that when the mouth of the complainant was hit by the accused/revisionist then he fell down and he lost his gold chain. Thus the reliance placed by the learned trial Court

on the story advanced by the complainant/respondent is not justified while summoning as well as framing of charge upon the revisionist/accused.

9. *Further even in the complaint complainant has not stated that he has got fractured in his teeth. This fact is corroborated from the rapat as well as investigation conducted by the police.*

10. *Keeping in view the above discussion this Court is of the view that the essential ingredients to constitute the offence under Section 323 and 325 IPC are not made out and the learned trial Court has erred in passing order dated 1.12.2016 while framing the charge against the revisionist under these sections, whereas, the revisionist deserves to be discharged from the said offences. Therefore, keeping in view the jurisdiction of Revisional Court under Sections 397 Cr.P.C., it is held that the order of framing of charge by the learned trial Court is perverse and, liable to be set aside. Consequently, the order dated 1.12.2016 vide which learned trial Court framed the charge under Sections 323, 325 IPC against the revisionist is set aside and revisionist is discharged from the alleged offences. A copy of this order be sent to the trial Court. File be consigned to the record room after due compliance.*

Feeling aggrieved, the complainant has knocked at the door of this Court by way of filing the present petition under Section 482

Cr.P.C.

Notice of the petition was issued to respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

It is stated by learned counsel for the respondent No.2 that the complainant is a past master in such type of acts inasmuch as he had lodged another FIR on similar allegations i.e. FIR no.146 dated 26.12.2016. The accused therein was given a clean chit and rather the present complainant has been brought to book under Section 182 Cr.P.C.

As far as the order passed by learned Magistrate summoning the accused that does not pass the judicial scrutiny and it does not come out to be product of a judicious mind. Whereas the order of discharge passed by learned Additional Sessions Judge, Sirsa is very detailed and well reasoned. The order does not come out to suffer from any illegality or infirmity much less apparent on the face of it. The order is certainly not perverse or against the principles of criminal jurisprudence. Vide order passed by learned Additional Sessions Judge, Sirsa, the wrong committed by the Magistrate has been undone. From the facts and circumstances of the case, I do not find enough material to be there on the file justifying the framing of formal charge against the accused. The present petition does not fall within four corners of Section 482 Cr.P.C. No ground is there to interfere with the impugned order passed by learned Additional Sessions Judge, Sirsa while exercising jurisdiction under Section 482 Cr.P.C.

The petition being without merit stands dismissed accordingly.

4.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No