

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

CRR-3203-2019
Decided on : 30.01.2020

Raj Narain

..... Petitioner

Versus

State of Haryana & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Santosh Bhardwaj, Advocate for
Mr. Partap Singh, Advocate
for the petitioner.

Mr. Ashish Sanghi, DAG, Haryana.

Ms. Anu Bala Garg, Advocate
for respondents No.2 to 5.

Manjari Nehru Kaul, J.

Instant petition has been filed against the order dated 21.09.2019 passed by Addl. Sessions Judge, Rohtak vide which charges were framed under Sections 323, 325, 342 r/w Section 34 IPC only against respondents No.2 to 5.

It has been urged that the learned court below gravely erred in not framing charges under Section 364 IPC despite the fact that there existed prima facie evidence to attract the mischief of Section 364 IPC. Learned counsel for the petitioner vehemently argued that not only the nature but also the number and the seat of injuries as reflected in the MLR of the complainant/petitioner clinchingly corroborated the allegations which had been levelled against the respondents in the FIR, which was registered on the very next day of the occurrence in question after the petitioner regained consciousness in the hospital. It is further contended that in

pursuance to the orders of Superintendent of Police for further investigation of the case, a special investigating team was constituted. In the investigation conducted by the SIT, Section 364 IPC was added; therein after the Final report under Section 173 Cr.PC was filed against the respondents-accused. Despite that learned Court below while framing charges failed to frame charge under Section 364 IPC. The said fact has not been controverted by learned State counsel.

Learned counsel for the respondents-accused has vehemently opposed the submissions of learned counsel for the petitioner by urging that the offence under Section 364 IPC was not attracted in the instant case and therefore, learned court below rightly did not frame charge under Section 364 IPC.

I have heard learned counsel for the parties and gone through the impugned order and other material available on record.

Section 364 IPC is attracted only when a person is kidnapped or abducted in order that such person may be murdered or he may be put in danger of losing his life.

Adverting to the case in hand, the petitioner in his statement pursuant to which the FIR in question was registered, gave a detailed account of the entire occurrence wherein he named all the accused persons and also the injuries, which were inflicted on his person, by each of the respondents-accused. Not only this, he also stated that after he had been inflicted injuries by the accused persons, who were carrying deadly weapons, his legs were tied with a rope and thereafter he was dragged to the house of respondent-accused Bijender where again he was subjected to

assault with sticks; all along, the accused persons had been contemplating loudly that he should be killed as he had been giving complaints against them for which they had to tender apology before the villagers many a times. Thereafter accused Yogesh @ Bholu again tied his legs with rope whereas accused Baljeet pressed his throat and other accused-persons continued to assault the complainant till he was rendered unconscious.

There can be no manner of doubt on perusal of the statement of the complainant and the injuries, which find reflected in his MLR including an injury declared to be dangerous to life that prima facie circumstances do exist for framing charge under Section 364 IPC, as at this stage, only a prima facie case is to be made out. Hence, the trial court is directed to frame charge accordingly.

As a sequel to the above, the impugned order dated 21.09.2019 passed by the Court below is set aside and the present petition stands allowed.

30.01.2020
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(MANJARI NEHRU KAUL)
JUDGE

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