

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

CRM-M-35540 of 2021

DATE OF DECISION: 31.08.2021

Shiv Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

**Present:- Mr. Onkar Rai, Advocate
For the petitioner.**

Mr. Deepak Kumar Grewal, DAG Haryana.

ARVIND SINGH SANGWAN, J.(ORAL)

1. Prayer in this petition is for quashing of order dated 15.07.2021(Annexure P-5) passed by the Illaqua Magistrate dismissing the application filed by the petitioner-accused for giving directions to the Investigating Officer to seek an opinion of the Board of Doctors qua the injuries of Parveen as well as the order dated 13.08.2021 passed by the Addl. Sessions Judge dismissing the revision petition.

2. Learned counsel for the petitioner submits that as per allegations in the FIR, the victim/ injured Parveen was given multiple injuries by the accused party and he was medicolegally examined by the Doctor vide MLR(Annexure P-8) and following injuries were found:-

“Description of injuries:-

** Deep incised wound of size around 8cm x 3.5 cm located on the lower abdomen region with c/o pain and fresh bleeding present. Adv. USG whole abdomen, X ray abdomen general surgeon opinion, KUO, sharp, within 6 hrs.*

** Deep incised wound size around 3 cm x 1.5 cm located on the left scapular region with c/o pain and fresh bleeding*

present. KUO, sharp, within 6 hrs. ADV X Ray upper back AP/LAT General/ Ortho opinion.

** Deep incised wound of size around 3.5 cm x 1.5 cm on the left lower side on the back with fresh bleeding present. KUO, Sharp within 6 hrs. X Ray LS Spine Ap/LAT. Ortho/ General Surgeon Opinion.*

** Deep incised wound of size 3 cm x 1.5 cm on the left upper side of chest, sharp KUO, within 6 hrs. Ortho General Surgeon opinion.”*

3. The patient was referred to Civil Hospital, Faridabad. It appears that the victim was later on taken to Sarvodya Healthcare Hospital, Faridabad, where he was finally diagnosed and treated as under:-

“Final Diagnosis

Multiple deep stab wound over abdomen left axilla back and chest wall with active vascular bleeding with large hematoma lower right abdominal wall.

Procedure:-Diagnostic laproscopic abdominal exploration with ligation of active vascular bleeder and hematoma evacuation and muscular repair done under GA on 08.06.2021.

Procedure II:- Left axillary wound exploration with ligation of bleeder and muscular repair and wound closure done under GA on 08.06.2021.

Procedure III:- Left lower back wound exploration and primary repair with multiple stab wound laceration repair done under GA on 08.06.2021.”

4. Learned counsel for the petitioner submits that thereafter the Investigating officer has given an application (Annexure P-11) to the Medical Officer, Sarvodya Hospital for giving an opinion regarding the

nature of injuries No.1,2,3 and 4; the kind of weapon used and whether the injuries received by the victim are declared dangerous to life.

5. Learned counsel further submits that the treating Doctor declared that all the injuries are by sharp weapon and injuries No.1 and 2 were declared dangerous to life. It was opined as under:-

“All injuries are sharp.

Dangerous to life due to active bleeding and large hematoma expanding in abdomen wall. Deep (L) axillary injury. But not inter abdominal injury. (Injury No.1 and 2- dangerous to life) Injury No.3 and 4 simple sharp.”

6. Thereafter, another application (Annexure P-12) was moved before the Medical Officer, General Hospital, Ballabgarh (Faridabad) qua nature of injuries of Parveen and the following opinion was given by the Doctor:-

“Injury No.1- Sharp and dangerous to life.

Injury No.2- Left axillary wound. Exploration with ligation of bleeder.

Injury No.2 Sharp and dangerous to life.

Injury No.3 and 4- Simple sharp.”

7. Learned counsel for the petitioner submits that thereafter petitioner has given an application before the Ilaqua Magistrate. However, the same was declined by the Court vide impugned order dated 15.07.2021 by observing as under:-

“Heard. The learned counsel for the applicant had relied on court laws Kulwant Singh V. Bohar Singh and Ors 1997(1) C.C. Cases 270 (HC) and Mohan @ Mohni Vs. State of

Haryana and others 2015(4) RCR(Criminal) 683 to show that for proper investigation, a medical examination of accused can also be got conducted. But the judgment shall not advance the case of the accused. In the present case, the accused had moved the present application on the ground that opinion has not been taken from appropriate authority, Board of Doctors. He claimed that the injuries are not dangerous to life and opinion of doctors has been manipulated. But the applicant concealed that the medical opinion has been taken by the police from Medical Officer, Government Hospital, Ballabgarh on 18.06.2021. It was opined that the injury No.1 was dangerous to life.

In view of the report submitted by the police and considering the fact that opinion from the doctors has already been taken from Sarvodaya Hospital, Sector 8, Faridabad and Government Hospital, Ballabgarh, there is no need to give direction to the IO concerned for taking the injured before the Board of Doctors. Hence, the application in hand stands dismissed. Papers be tagged with the FIR.”

8. Learned counsel further submits that thereafter a revision was preferred before the Court of Sessions and the same was dismissed vide impugned order dated 13.08.2021 primarily on the ground that revision petition is not maintainable.

9. Learned counsel for the petitioner has argued that there is no specific opinion given either by the Doctor of Sarvodaya Hospital or by the Medical Officer, General Hospital, Ballabgarh regarding the nature of injuries and therefore, it would be appropriate to direct the victim Parveen to appear before the Medical Board to seek the opinion of the Doctors.

10. After hearing learned counsel for the petitioner and perusing the record I find no merit in this petition.

11. Two injured, namely, Parveen and Naveen were admitted in Sarvodaya Hospital. Injured Naveen had suffered fracture of jaw, whereas Parveen suffered as many as four injuries. The discharge summary of injured Parveen shows that he suffered “multiple deep stab wound over abdomen left axilla back, and chest wall with active vascular bleeding with large hematoma lower right abdominal wall. Injuries No.1 and 2 on the person of Parveen were opined to be “dangerous to life” by the Medical Officer, Sarvodaya Hospital, Faridabad and similar opinion was given by the Medical Officer, General Hospital, Ballabgarh, as referred to and reproduced above. Both the opinions are consistent about the nature of injuries suffered by injured Parveen. Since there is no variation and or any conflict in two of the opinions given by Doctors of Sarvodaya Hospital, Faridabad and General Hospital, Ballabgarh, I find no ground to direct constitution of Medical Board in order to seek another opinion about the nature of injuries of Parveen as the petitioner can cross-examine both the doctors at appropriate stage.

12. The petition is dismissed. However, whatever has been said hereinabove is without prejudice to the case of the petitioner on merits.

(ARVIND SINGH SANGWAN)
JUDGE

31.08.2021
Jiten Sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No