

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

CRM-M-936-2022

Date of decision : 24.03.2022

Jagdish Singh and others

...Petitioners

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajesh Dhiman, Advocate for the petitioners.

MANOJ BAJAJ, J.

Petitioners have challenged the order dated 01.10.2021 passed by the revisional Court whereby, the order framing of charge dated 15.03.2021 passed by the trial Court, refusing to frame charge against petitioners for the alleged commission of offence punishable under Section 452 IPC, was reversed by directing the trial Court to frame the charge against the accused under Section 452 IPC as well. The impugned order arises from case FIR No.19 dated 15.03.2019 registered under Sections 451, 323, 506, 148 and 149 IPC at Police Station Badali Ala Singh, District Fatehgarh Sahib.

The allegations in the FIR, as noticed by learned Sessions Judge, Fatehgarh Sahib in the order dated 01.10.2021 are as under:-

“In brief, the facts of the case are that FIR was registered on the basis of statement made by Jagdish Singh son of Jarnail Singh. It was stated that he has three children and his wife Baljit Kaur is a housewife

and he is doing job of a Security Guard at Punjab College of Education, Chunni Kalan from 9.00 AM to 5.00 PM and after that he sits in his shop which he is running in his own house for the last 5 years. In front of his house, there is a house of Jagdish Singh son of Sarup Singh who lives with his family. On 13.03.2019, he was sitting in his shop and talking to his son Gurpreet Singh and then his wife Baljit Kaur came there with his food. He heard noise in the street and saw that Jagdish Singh, Harwinder Kaur wife of Jagdish Singh, Manpreet Singh son of Jagdish Singh, Gurwinder Singh son of Jagdish Singh, Raju son of Jagdish Singh and one of the relative were abusing him and his family. He was just going outside then Manpreet Singh, Jagdish Singh armed with sotis (stick), Gurwinder Singh, Raju, Harwinder Kaur and their unknown relative armed with bricks came inside the shop. Manpreet Singh gave soti (stick) blow which hit him on his forehead and Jagdish Singh repeatedly gave stick blows which hit on his stomach and right leg. Blood started coming out of his injury on the forehead. His son Gurpreet Singh and wife Baljit Kaur came ahead to save him, then, accused caught hold his son Gurpreet Singh and his wife Baljit Kaur from hairs and dragged them in the street. Raju and his unknown relative caught hold his son Gurpreet Singh from both of his hands and Gurwinder Singh gave brick blow on the head of his son and his wife Baljit Kaur was hit by Harwinder Kaur and Jagjit Singh with sticks. He immediately shut down the shutter of his shop and accused, thereafter, ran away from the spot.”

After registration of the case, the investigation was conducted and final report under Section 173 (2) Cr.P.C. was filed. The trial Court after considering the material on record vide order dated 15.03.2021 proceeded to frame the charges against the accused for the offences punishable under Sections 323, 447, 506, 201 and 148 IPC and further held that charge for the alleged commission of offence punishable under Section 452 IPC is not made out.

Aggrieved against the order dated 15.03.2021, the complainant preferred criminal revision bearing No.09/19.04.2021 before the Sessions Judge, Fatehgarh Sahib and the said revision petition was allowed through the impugned order dated 01.10.2021 (Annexure P-5). Hence, this petition.

Learned counsel for the petitioners has argued that the trial Court had carefully considered the material on record and rightly framed the charges under Section 447 IPC against the petitioners, but the Court of revision has exceeded its jurisdiction in substituting the charge with the offence punishable under Section 452 IPC. He has argued that since the alleged occurrence took place in front of the shop of the complainant, therefore, offence punishable under Section 452 IPC would not be strictly made out. He prays that impugned order be set aside.

After hearing learned counsel and considering the above background, this Court finds that as per definition of criminal trespass contained in Section 442 IPC, if a person enters into or upon property in the possession of another, it would constitute the offence of house trespass. As per explanation of Section 442 IPC, even if any body part of the offender enters the property, the ingredients of the offence would be complete.

During the course of hearing, it is also not disputed by learned counsel that as per prosecution in the alleged occurrence, the

victim suffered simple injuries punishable under Section 323 IPC and for that separate charge has also been framed. Further, a perusal of impugned order reveals that the revisional Court has carefully examined the entire material on record as well as the order passed by the trial Court and has rightly exercised the jurisdiction vested in it,by holding that *prima facie*, the material on record suggests that the offence punishable under Section 452 IPC is made out.

Resultantly, this Court is not inclined to exercise the inherent powers under Section 482 Cr.P.C.

Dismissed.

(MANOJ BAJAJ)
JUDGE

24.03.2022

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