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

CRR-168-2022

Date of decision : 04.02.2022

Kuldeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Chandan Singh, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the order dated 14.12.2021 vide which, charges under Sections 307, 325, 323, 324, 427, 188, 148, 149 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and Section 3 of the Prevention of Damages to Public Property Act, 1984 (hereinafter to be referred as “the Act of 1984”), have been framed against the petitioner and three other co-accused. Out of the four accused persons, only one accused i.e., the present petitioner has challenged the impugned order.

Learned Senior Counsel for the petitioner has vehemently argued that in the present case, charge under Section 307 of the IPC has

been wrongly framed. In support of his arguments, he has submitted that in the present case, out of 11 persons named in the FIR, six persons have been found to be innocent by the police and has thus, contended that the version given by the complainant in the FIR is not fully correct. It is further submitted that in the present case, the complainant has got himself examined from a Private Hospital instead of a Government Hospital and even as per the MLR dated 01.01.2019 of the Private Hospital namely, Badyal Hospital (Annexure P-2), there were seven injuries on the person of the injured/complainant whereas, as per the opinion which has been given on 05.01.2019 i.e. after a delay of 4 days from the date of the MLR, there is only one fracture which has been found in the scapula and thus, considering all the injuries, offence under Section 307 of the IPC is not *prima facie* made out. It is argued that there is no allegation that the present petitioner had given repeated/successive injuries so as to make out a case under section 307 and on the basis of the said fact, it has been argued that the petitioner or other co-accused had no intention or knowledge, as are the necessary ingredients to constitute the offence under section 307 to cause murder of the injured. He has relied upon following judgments of this Court in support of his contentions:-

- 1) ***Sant Prakash Singh Vs. State of Punjab***, reported as ***1995(1) RCR (Criminal) 1***,
- 2) ***State of Punjab Vs. Parveen Kumari and others***, reported as ***1991(3) RCR (Criminal) 422 (DB)***,
- 3) ***Gurmit Singh Vs. U.T. Chandigarh***, reported as ***2003(1) RCR (Criminal) 535***,

- 4) *State of Punjab Vs. Gurmail Singh*, reported as 2002(2) RCR (Criminal) 600 (DB),
- 5) *Jangir Singh Vs. Sukhdev Singh*, reported as (2005) 1 RCR (Criminal) 260.

It has been submitted that while framing charges, a Judge is not to act as a post office and has to consider the entire material on record to prima facie see as to whether offence under Section 307 of the IPC is made out or not. It is argued that the impugned order does not reflect application of mind and thus, deserves to be set aside. He has further argued that there is no injury which has been inflicted on a vital part of the body in the present case, which would also show that offence under Section 307 of the IPC in the present case is not made out.

This Court has heard the learned Senior Counsel for the petitioner and has perused the paper book.

FIR (Annexure P-1) in the present case has been registered on the statement of Sarabjit Singh @ Kaka son of Gurdeep Singh, who had stated that on 30.12.2018, the Panchayat elections had taken place and that the said complainant was the counting agent of one Manjit Kaur and after the voting was over, the present petitioner-Kuldeep Singh, whose mother-Manjit Kaur wife of Mukhtiyar Singh, was also a candidate for the post of Sarpanch, started arguing with the complainant and a large number of persons, who were workers belonging to the petitioner's party, came inside the school by jumping over the walls and many of the said persons were armed with pistol and other deadly weapons such as *gandasi*, *kirpan*, *gandali*, *rod*, *kapa* etc. It is further alleged that as many as 7 injuries were

caused to the complainant by the said persons, with an intention to kill him. Out of the seven injuries, two injuries i.e., injury no. 1 and injury no.2, were inflicted with a sharp edged weapon and one injury i.e., injury no.5, was declared to be grievous as there was a fracture in the scapula. Specific allegations have been made in the FIR that all the said persons had the intention to kill the complainant and had thus, inflicted the said injuries. It is also alleged that the pistol was also used by the accused and during the firing, bullets fired crossed the complainant. It was specifically alleged that motive behind the incident was that since candidate-Manjit Kaur, mother of the Petitioner, was in a weak position, thus, the accused persons wanted to keep the complainant/injured outside so that they could disrupt the counting of the votes and, therefore, all the said persons in connivance with each other, caused injuries to the complainant/injured with an intention to kill him.

A perusal of the FIR would show that on 31.12.2018, information was received at the Police Station to the effect that, the complainant/injured was lying admitted in Badyal Hospital, Bathinda in an injured condition and thereafter, the police officials had gone there to record his statement but however, the Doctor had opined that the complainant/injured was "unfit" to give statement on 31.12.2018 and thus, his statement was recorded on the next day i.e. on 01.01.2019.

A perusal of MLR dated 01.01.2019 (Annexure P-2) would show that injury No.1 was an incised wound on the scalp, measuring 5 cm x 2 cm and injury No.2 was another incised wound on the left forearm, measuring 4 cm x 2 cm and both the said injuries were caused by a sharp-

edged weapon. Injury No.5 was inflicted on the back/scapula and injury No.4 was caused on the left leg. As per the opinion of the Doctor dated 05.01.2019 (Annexure P-3), on further investigation (i.e., CT scan), it was found that there was a fracture in the scapula and the nature of the injuries were thus, declared to be grievous.

Learned Additional Sessions Judge, Sri Muktsar Sahib, vide impugned order dated 14.12.2021, after considering the allegations levelled in the FIR as well as the medical report with respect to the injuries, framed the charges as has been stated hereinabove. It is the said order which is under challenge in the present Criminal Revision petition to the limited extent that charge under section 307 has been wrongly framed.

A perusal of the FIR would show that there are specific allegations in the FIR with respect to injuries having been given to the complainant with an intention to kill. The accused persons have been stated to be armed with deadly weapons such as *gandasi*, *kirpan*, *gandali*, *kapa*, *rod etc.* As per the medical report, seven injuries have been suffered by the complainant/injured, out of which, two injuries are with a sharp edged weapon and injury No.1 is on a vital part of the body i.e. scalp. Injury No.5 which is on the scapula, is stated to be grievous in nature inasmuch as, there is a fracture in the scapula as per the medical opinion (Annexure P-3). Even, a perusal of the FIR would show that as per the police proceedings, the complainant/injured was stated to be unfit to give statement on 31.12.2018 when the police had gone to the Hospital to record the statement of the complainant. There are allegations in the FIR that even pistols were used for firing towards the complainant, which crossed the complainant and all the

abovesaid facts, taken together, would show that impugned order framing charges against the petitioner and the other co-accused persons under Sections 307, 325, 323, 324, 427, 188, 148, 149 of the IPC and Section 3 of the Act of 1984, cannot be stated to have been passed, on account of non-application of mind.

In the considered opinion of this Court, there is prima facie material to frame charges under the Sections under which they have been framed, including Section 307 of IPC.

The judgments which have been relied upon by the learned Senior Counsel for the petitioner, would not further the case of the petitioner.

In **Parveen Kumari's case** (*supra*), the Hon'ble Division Bench was dealing with an appeal which had been filed by the State of Punjab against the judgment of the Additional Sessions Judge, Ludhiana acquitting three persons of the charge under Sections 307/34 IPC and convicting one Rajneesh Kumar of the offence under Section 324 of IPC who was released on probation. Thus, in the above-said case the trial court had been completed trial and it was not a case in which challenge was to the order framing charges. Relevant portion of the said judgment is reproduced hereinbelow:-

“The present appeal has been filed by the State of Punjab against the judgment dated July 5, 1983 recorded by Shri O.P. Dharwal, the learned Additional Sessions Judge, Ludhiana whereby Parveen Kumari, Ranjit Singh and Darshan Singh were acquitted of the charge under Section 307/34. Penal Code, 1860 but Rajneesh Kumar son of

Parveen Kumari was convicted for an offence under Section 324, Penal Code, 1860 and was released on probation on his furnishing a personal bond in the sum of Rs.5000/- with one surety in the like amount for a period of two years.

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As regards the offence committed by Rajneesh Kumar, the learned trial Court had come to the conclusion that Rajneesh Kumar had fired a shot at Ram Parkash with revolver Exhibit P1. But by firing that shot he had not committed an offence under Section 307, Penal Code, 1860 but offence came under the purview of Section 324, Penal Code 1860, as there was no intention to commit murder of the deceased. Dr. Sunil K. Singh stated that the injury on the person of Ram Parkash was simple in nature and it could not have resulted in death. The injured was fit to make a statement on the same evening and he was discharged on the third day. As per site plan prepared by the Draftsman, the fire was shot from a distance of 22 feet. When the revolver was seized it had still three bullets in it. Only one shot was fired which did not hit any vital part of the body. In the case of Bhagwan Din Vs. State, AIR 1967 Allahabad 580, it was held:-

“The mere fact that a firearm was used to cause injuries to the victim will not necessarily bring the case under Section 307. There can be no presumption that the accused intended to cause the death merely because he used a firearm to cause hurt. The intention of the accused person has to be established from either the nature of his act actually committed by him or from other surrounding circumstances. Where the injury has actually been caused to the victim, the prosecution, while attempting to establish that the real intention of the

accused was to cause an injury of the nature which was sufficient in the ordinary course of nature to cause death or was so imminently dangerous that would cause death, had further to establish the intention or knowledge of the accused as contemplated in Section 307 IPC. The burden of proof is on the prosecution and not on the accused.”

7. In the instant case, the shot was fired from a distance and it did not hit any vital part of the body. A simple injury was caused and no farther shots were fired although the revolver contained three more bullets.

8. There was no evidence to establish with certainty the existence of requisite intention or knowledge of the respondent. Rajneesh Kumar respondent was therefore, rightly convicted of the offence under Section 324, Penal Code, 1860. As he was a boy of the age of 15 years, he was given the benefit of probation. □

9. The findings of the trial Court acquitting Parveen Kumari respondent and convicting Rajneesh Kumar of an offence under section 324, Penal Code, 1860 are correct and are affirmed. □

10. Consequently merit in this appeal and dismiss the same.”

A perusal of the above judgment would show that apart from the fact that the above-cited case was not a case arising at the stage of framing of charges whereas, it was a case in which, three of the accused persons had been acquitted by the trial Court and one accused person had been convicted after trial. In the abovesaid case, it was specifically observed that the trial Court had come to the conclusion that accused-Rajneesh had not committed offence under Section 307 of IPC as there was no intention to commit murder. It was further observed that the injury which was suffered

by Ram Parkash (complainant therein) was declared to be simple in nature and could not have resulted in his death and the injured was fit to make the statement on the same evening and even the alleged firearm was shot from the distance of 22 feet and when revolver was seized, it still had three bullets in it and yet, as per the prosecution case, the accused had given only one injury which was not on any vital part of the body and was declared to be simple in nature. It was affirmatively found that there was no evidence to establish with certainty the existence of requisite intention or knowledge to constitute the offence under Section 307. On the other hand, in the present case, there are specific allegations in the FIR that the injuries have been caused with an intention to kill. The evidence in the present case is yet to be led and thus, it would be premature to give any affirmative finding to the effect that there is no evidence to establish the intention or knowledge, as has been given in the abovesaid case. Additionally, one of the injury in the present case is grievous in nature and out of the seven injuries, two injuries had been caused with a sharp edged weapon, one of which, is on the head which is a vital part of the body. It is, thus, apparent that the facts of the above-cited case are completely different from the facts of the present case and thus, the said judgment would not further the case of the petitioner.

Next judgment relied upon by the learned Senior Counsel for the petitioner i.e. **Gurmit Singh's case** (*supra*), would also not further the case of the petitioner. Relevant portion of the said judgment is reproduced hereinbelow:-

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2.The facts leading to the case are that case FIR No. 126

dated 3-11-1989 under Sections 147, 149, 324 and 506, I.P.C. was registered against the accused, who are petitioners in this case, at Police Station North, Chandigarh, at the instance of Haraj Singh Sidhu, complainant. It is only at the time of filing challan that the offence under Section 307 I.P.C. was also added. Accordingly, the case was committed to the Court of Session, and by the impugned order dated 12-11-1990 charge under Section 307 I.P.C. in addition to other offences has been framed against the petitioners. The occurrence in the case relates to an incident at the Chandigarh Club on 3-11-1989. The complainant alleges that he was abused without any rhyme or reason by the petitioner Gurmeet Singh alias Nikka on 2-11-1989. The reason for abusing him was that the complainant was opposing him in the Club elections. The complainant ignored the incident. However, on 3-11-1989, at about 10 p.m. the complainant went to the club where Jaswinder Singh Bhaika and Narinder Singh Sandhu met him and Jaswinder Singh invited him for a drink. In the bar the accused petitioners along with three other companions were standing and a scuffle ensued. Gurmeet Singh alias Nikka tripped the complainant who fell down. Then his younger brother Binny who was holding a beer bottle in his hand broke it by hitting on the ground and hit the complainant on his left arm. Nikka who was holding a soda bottle in his hand broke it by hitting it on the ground and hit the complainant twice on his head. Nikka's brother-in-law gave fist blows on the face of the complainant and the other three companions kicked and hit the complainant with fist blows. On account of which the complainant was injured and he was shifted to P.G.I. where he was medically examined. Five injuries were found on the person of the complainant. These injuries were simple in nature.

3. *I have heard the learned counsel for the parties.*

4. *Shri Baldev Singh, learned senior Advocate appearing on behalf of the petitioners contends that the injuries being simple in nature, the charge under Section 307 I.P.C. was not liable to be framed against them. He further contends that from the circumstances and material on record it is evident that there is no motive or intention on the part of the petitioners to murder the complainant. He also contends that the police initially registered the case for the offences under Sections 147, 149, 324 and 506, I.P.C. and it is only at the time of filing challan that the offence under Section 307, I.P.C. was added. Lastly it is contended that the Court is not to act as a post office, simply to charge the accused for the offences for which they have been challaned by the police.*

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In the circumstances of the case, it may be noticed that there was only a scuffle which happened on account of the chance meeting of the accused and the complainant, who is the victim, in the Club premises. The grouse as per the complainant's version is that the accused had abused him without any reason on 2-11-1989 and on asking he (accused) said that the complainant was opposing him in the elections. Thereafter, it is on the next day i.e. on 3-11-1989 that the complainant was at the club and was accosted by the accused petitioners who caused injuries. Therefore, it was chance meeting at the club which resulted in the scuffle and the reason is the opposition of the complainant in the club elections. There is no motive or mens rea discernible from the record on the part of the accused to murder the complainant. The nature of injuries, though not decisive for attributing the offence of attempt to murder in view of first

part of Section 307, however, in the circumstances is a relevant factor to be taken into account to surrounding facts and circumstances of the situation. Where injuries have been attributed the same are also to be taken into account to see the attending circumstances as to whether the accused had the knowledge or intention to cause murder.

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All the above wound were simple wounds patient was discharged on 4-11-1989. MLR given to police on request.

16. The perusal of the above nature of injuries and the medical opinion show that the injuries on the person of the complainant are simple in nature. Besides, the patient was discharged on 4-11-1989 i.e. one day after the occurrence of 3-11-1989, which took place at 10.00 p.m. It may be noticed any hurt which 'endangers life' can be "grievous hurt." Section 320, I.P.C. defines the various kinds of hurt which are designated as "grievous". Clause Eighthly of Section 320 refers to any hurt which 'endangers life'. Therefore, hurt which endangers life is a grievous hurt apart from other kinds of hurt designated as "grievous in Section 320 I.P.C. The prosecution itself has not made a case of "grievous hurt" within the meaning of Section 320, I.P.C. so as to prosecute the petitioners for an offence under Section 325, I.P.C.

17. The Hon'ble Supreme Court in Sarju Prasad v. State of Bihar, AIR 1965 SC 843 : (1965 (1) Cri LJ 766) held that to attract, the provisions of Section 307 I.P.C. it is necessary for the prosecution to establish that intention of the accused in causing the injury was of any of the three kinds referred to in Section 300 I.P.C. and unless the prosecution discharges the burden, the offence under Section 307 I.P.C. cannot possibly be brought home. In the said case, the accused had caused an injury with the knife in a vital region

but no vital organ of the injured was cut as a result of injury. However, he was convicted by the Court below for an offence under [Section 307](#) of the I.P.C. The Hon'ble Supreme Court held that the state of mind has to be deduced from the surrounding circumstances. Besides also the existence of a motive to cause death would be a relevant consideration. Taking the totality of the circumstances, it was held that there was no intention of murder or to cause any injury which may result in death could be inferred. Accordingly, it was held that the prosecution had not established that the offence committed fell squarely under [Section 307 I.P.C.](#) and that in its opinion it amounted to an offence under [Section 324](#) of the I.P.C. In the case of [Kundan Singh v. State of Punjab](#), AIR 1982 SC 62 : (1982 Cri LJ 626 (2)), the victim received simple injuries from gun shots fired by the accused. The injured were in the courtyard of their house, when the accused fired the gun shots. It was held that accused could not have intended to injure them. The conviction of the appellant for the offence under [Section 307 I.P.C.](#) was held to be not justified and it was altered to that of an offence under [Section 324](#) of the I.P.C. since the victim received simple injuries.

18. Keeping in view of the totality of the circumstances and sifting and weighing the material for the limited purposes of charge, I am of the view that the charge framed by the learned Additional Sessions Judge, for offence under [Section 307, I.P.C.](#) is not sustainable. The state of mind of the petitioners and the surrounding circumstances do not make out a case that there was an intention on their part to murder the complainant. Neither are the injuries of the kinds referred to in [Section 300](#) of the I.P.C. The charge framed for the offence under [Section 307 I.P.C.](#) is not commensurate but rather disproportionate to the gravity of

situation and the offence. Therefore, I am of the view that there is no prospect of the case ending in conviction of the petitioners for the offence of attempt to murder within the ambit of [Section 307, I.P.C.](#) ”

A perusal of the above judgment would show that in the above-said case, FIR was not registered under Section 307 of the IPC and the same was only added at the time of filing of the challan. The facts as have been detailed in para 2 of the judgment would show that there was no allegation made by the complainant to the effect that any injury was caused by the accused persons with an intention to kill/murder the complainant. All the injuries were found to be simple in nature. There was no firearm used in the commission of the offence. It was observed in the abovesaid case that there was no motive or mens rea discernible from the record which would show that the accused therein wanted to murder the complainant. In the said case, there was no grievous injury and thus, on the basis of the said facts and circumstances, it was observed that there was no prospect of the case ending in conviction for commission of offence under Section 307 of the IPC. Whereas, in the present case, the FIR has been registered under Section 307 of the IPC as there were specific allegations that seven injuries which had been caused to the complainant were with an intention to kill and two of the seven injuries have been inflicted with a sharp edged weapon and one injury i.e. injury no.5, has been declared to be grievous in nature and accused persons in the present case were stated to have been carrying pistols and other deadly weapons such as *gandasi*, *kirpan*, *gandali*, *kapa*, iron rod etc. It is thus, apparent that the facts of the cited judgment and the present case are completely different.

The judgment in **Gurmail Singh's case** (Supra), does not further the case of the petitioner. Relevant portion of the said judgment is reproduced hereinbelow:-

“This appeal against acquittal arises out of the following facts.

2. At about 2.00 P.M. on November 12, 1991, Amar Singh (PW-1) along with his brother Manjit Singh, cousin Inderjit Singh and one Harbans Singh was going in a jeep from Kohara to village Chhandran and as they reached within the revenue limits of village Chhandran, they saw accused Gurmail Singh, Nachhattar Singh, Waryam Singh alias Binder Singh, Balwinder Singh alias Babla and Nahar Singh, all armed with Gandasas whereas Kehar Singh accused armed with a Dang standing there. They stopped the jeep whereafter the accused dealt various blows on the occupants of the jeep. Harbans Singh, however, managed to drive the jeep away and reached Civil Hospital, Sahnewal wherefrom Amar Singh and Jasbir Singh were referred to the Christian Medical College and Hospital, Ludhiana. Jasbir Singh's statement was thereafter recorded by the police in the hospital and on its basis, the F.I.R. was registered at 2.10 P.M. on November 15, 1991 at Police Station, Sahnewal for offences punishable under Sections 324/323/148/149 of the Indian Penal Code. On the completion of the investigation, the accused were charged for offences punishable under Sections 148, 307, 326 (three counts), 325 (two counts), 324 (three counts) and 323 (three counts) read with Section 149 of the Indian Penal Code.

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12. xxx xxx.

We are accordingly of the opinion that the finding of acquittal in toto was not well merited.

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13. We are also informed that Kehar Singh was 75 years of age at the time of the incident. His participation in the incident was, therefore, clearly suspect. We accordingly find no merit in the appeal qua him.

We, however, allow the appeal qua Gurmail Singh, Waryam Singh and Nachhattar Singh and convict them for an offence punishable under Section 325/34 of the Indian Penal Code and sentence them to a term of imprisonment already undergone by them as the incident had happened in the year 1991 and the appeal has been pending in this Court since 1994.”

The abovesaid case was also a case in which the Division Bench of this Court was hearing an appeal against acquittal, after the trial had been completed. A perusal of the allegations which have been stated in para 2 of the said judgment would show that there were no allegations that the accused therein were armed with a pistol as are the allegations in the present case. In fact, the appeal filed by the State of Punjab was partly allowed and although, the trial court had acquitted the accused persons, but the High Court convicted three persons under Section 325/34 of IPC. The above-cited judgment would also not further the case of the petitioner as apart from there being differences in the facts of the case, even the parameters which are to be considered at the time of examining an order framing charges and a judgment of conviction/acquittal, are different.

Even **Jangir Singh's case** (Supra), would not further the case of the petitioner. Relevant portion of the said judgment is reproduced hereinbelow:-

“This petition filed under Section 482 of the Code of

Criminal Procedure, 1973 (for brevity "Criminal Procedure Code") prays for quashing order dated 25.8.2004 passed by the learned Sessions Judge, Sangrur upholding the order dated 9.9.2003 of Additional Chief Judicial Magistrate, Sangrur whereby application filed by the complainant/petitioner has been dismissed.

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2. xxx xxx. It has been found by the Court of Sessions that only one injury on the palmer aspect of right hand was caused by a sharp edged weapon whereas rest of injuries appeared to be caused by the blunt weapon. Similarly, none of the injuries on the person of Sukhpal Singh was reported to be caused with a sharp edged weapon.

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6. xxx xxx. It is further evident that accused Jagdev Singh was armed with rifle which was not used at all which further would indicate the absence of intention to commit an offence under Section 307 Indian Penal Code. Moreover, none of the injuries are on the vital parts of the body of the complainant or injured. No injury has been caused on the head by the iron rod which the accused were carrying. Therefore, no legal infirmity could be found in the view taken by the ld. Sessions Judge.

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8. In view of the above, the instant petition fails and the same is dismissed. However, it is made clear that no observation made by this Court should be construed as an expression of opinion on the merits of the case and the order of the Sessions Judge is being upheld at this stage."

In the abovesaid case, both the Trial Court and Sessions Court had not framed charge under Section 307 of IPC and it was the said orders which had been challenged by the complainant therein before the High

Court and the said petition of the complainant was dismissed by a Coordinate Bench of this Court. In the said case, it was observed that none of the injuries which had been caused were on a vital part of the body whereas, in the present case, as per the MLR, there is an injury inflicted on the head of the complainant. It was further found in the said case that although, accused therein i.e., Jagdev Singh was stated to be armed with a rifle but he did not use the same and the accused was also stated to be armed with iron rods but still no injury was caused much less, on the head of the injured therein. All the injuries in the said case were caused with a blunt weapon except one injury on the palm, which is on a non-vital part of the body. It is, thus, apparent that even the facts of the said case would not apply to the facts of the present case.

The ratio of law sought to be highlighted by the learned Senior Counsel for the petitioner by placing reliance upon the judgement in the case of Sant Parkash Singh (*supra*) to the effect that Court is not merely to act like a post office at the time of framing of charges and should consider the entire material on record before *prima facie* opining that an offence is made out or not, cannot possibly be disputed. In the present case, as has been observed hereinabove, the Additional Sessions Judge as well as this Court have considered the entire material on record and on the basis of the said material, it cannot be said that charge under Section 307 of IPC is *prima facie* not made out in the present case. The following factors have weighed with this Court in arriving upon the said conclusion:

- I) The framing of charges under Section 325/323/324/427/148/149 IPC and Section 3 of the Act of 1984 has not been challenged by the

Petitioner in the present case. The Order of the Additional Sessions Judge only to the extent that charge under Section 307 has been framed, has been challenged.

- II) Charge has been framed against four accused persons, out of which, only one accused person, i.e., the present petitioner has challenged the Order. With respect to the charge under Section 307, there are specific allegations in the FIR that the accused persons, who were several in number, had inflicted seven injuries upon the complainant/injured with an intention to kill.
- III) Out of the seven injuries, two injuries were inflicted with a sharp-edged weapon. Injury no.1 is an incised wound on the scalp, which is a vital part of the body, measuring 5 cm x 2 cm. Injury no. 2 is also an incised wound on the left forearm, measuring 4 cm x 2 cm. Injury no. 5 has been declared to be grievous, after seeing the CT scan of the Complainant as per which, it has been found that there is a fracture in the scapula.
- IV) A perusal of the FIR would show that the accused have been alleged to have been armed with deadly weapons such as pistols, *gandasi*, *kirpan*, *gandali*, iron rod, *kappa* etc. and have used the same in the commission of the offence.
- V) As per the allegations in the FIR, even bullets were fired from the pistol which as per the complainant, went past him.
- VI) As has been stated in the FIR, the police went to record the statement of the complainant on 31.12.2018 but the doctor declared him “unfit” to make a statement and thus, the statement of the complainant was

recorded on the next day i.e., 01.01.2019.

Thus, keeping in view the abovesaid facts and circumstances, the present petition is dismissed and the impugned order framing charges under Sections 307, 325, 323, 324, 427, 188, 148, 149 of IPC and Section 3 of the Act of 1984 against the petitioner and the other co-accused, is upheld.

However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the trial which would proceed independent of the observations made in this order and the observations made in the present case are only for the purpose of deciding the present Criminal Revision, in which challenge is to the order framing charges.

04.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No