

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

258

**CRR-267-2021 (O&M)
Date of Decision:09.08.2022**

Kulwant Rai

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arvind Kashyap, Advocate
for the petitioner.

Mr. H.S. Sitta, Asst. AG, Punjab.

Mr. Ritesh Pandey, Advocate for respondents No.2 to 6.

ANOOP CHITKARA J. (ORAL)

Aggrieved by non-framing of charges under Section 308 IPC against the accused, the complainant (petitioner herein) has come up before this Court.

Learned counsel for the petitioner submits that some injuries were indeed received by the complainant, however, learned counsel for the accused has vehemently denied such statement and submits that no injuries were received.

Be that as it may, the matter can be resolved by remanding back to the trial Court with observations that the trial Court shall consider that in case, any injury is received then what appropriate offence *prima facie* is made out. While considering the such aspect, appropriate opportunity shall be afforded to the accused.

Learned counsel for the petitioner as well as for the private respondents, have no objection to such order.

Provided the accused are appropriately heard and given the appropriate opportunity to plead their case, consequently, the petition is **partly allowed and order dated 24.02.2021 is set aside and the matter is remanded back** to the concerned trial Court and the trial Court shall heard the matter qua non-framing of charges under Section 308 IPC. Remaining part of the order shall remain as it is. The trial Court shall also consider medical evidence and in case, body injuries are noticed, then appropriate charges shall be framed after giving appropriate opportunity to the accused and to plead their case. It is also clarified that observations made in this order shall not come in the way while considering the framing of charges by the concerned trial Court and it shall be without prejudice to this Court.

Parties to appear before the concerned Court on 14.09.2022, the date already fixed before the Court below.

Ordered accordingly.

(ANOOP CHITKARA)
JUDGE

09.08.2022
anju rani

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