

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-12546 of 2022

Date of Decision: 9<sup>th</sup> May, 2022

Charanjit Bhatia and others

Petitioners

Versus

State of Punjab and another

Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. S. S. Rangi, Advocate for the petitioners.  
Mr. Amit Mehta, Senior DAG, Punjab.  
Mr. V. K. Jindal, Senior Advocate with Mr. Kanhiya,  
Advocate for respondent No. 2.

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**AVNEESH JHINGAN, J (Oral):**

This petition is filed seeking quashing of order dated 8.3.2022 (Annexure P-10) passed by Sessions Judge, SBS Nagar in Criminal Revision No. RBT No. 22 of 2021. Further challenge is to the order dated 30.7.2018 (Annexure P-5) passed by Sub Divisional Judicial Magistrate in FIR No. 28 dated 4.3.2017, under Sections 341, 323, 324, 506, 148 and 149 IPC (Sections 341, 324, 148 and 149 IPC deleted and Section 34 IPC added later on), registered at Police Station Balachaur.

Learned counsel for the petitioners, after arguing at some length, is not disputing the fact that order (Annexure P5) is revisable order, he seeks permission to withdraw the present petition with liberty to avail remedies in accordance with law.

The grievance raised against order (Annexure P10) is that the revisional court while remanding the matter in paragraph No.8 of the order, has expressed opinion on the merits of the case.

Paragraph 8 of the order is quoted below:

*'At the outset, it is observed that the medical evidence clearly shows that injury No. 1 on the person of Rahul Mishra was declared as grievous in nature, caused with sharp edged*

*weapon, as per opinion given by Orthopedician, Civil Hospital, Nawanshahr. It appears that the learned trial court was swayed away with the enquiry conducted by the police in this case and has framed the charge as per its choice. However, the learned trial court was required to look into the documents appended with the report under Section 173 Cr.P.C. to arrive at a prima facie conclusion. The police is not the final authority and the Court has to assess the report under Section 173 Cr.P.C. in a right perspective. Further, it is observed that due to three hours delay in admission of the injured in the hospital, the board of the doctors opined that it may be self suffered injuries, however, as per letter bearing No. Medical (2)-Pb-17/15727-48 dated 5.9.2017 issued by the Punjab Government, Directorate of Health and Family Welfare, Punjab, the Medical Officers doing medico legal/postmortem work, have been instructed not to give any such opinion to the police Inquiry Officer, as such questions lie in the domain of Judicial Officers.”*

Without going into the issue as to whether the observations made by the revisional court are the reasons given for remand or are expression of opinion on the merits of the case, it is clarified by this court that the court deciding the issue of framing charge would not be persuaded by the contents of paragraph No. 8 of the impugned order.

The petition is disposed of in above terms with liberty to avail remedies in accordance with law against order (Annexure P-5) .

[AVNEESH JHINGAN]  
JUDGE

9<sup>th</sup> May, 2022  
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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |