

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

**CRM-M No.16573 of 2021
Date of Decision: 19-04-2022.**

Sandeep & Others

...Petitioners

Versus

State of Haryana & Another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Satbir Singh Gill, Advocate,
for the petitioners.

Mr. Apoorv Garg, DAG, Haryana,
for the respondent No.1-State.

Mr. Dheeraj Narula, Advocate,
for respondent No.2.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioners-accused have invoked the jurisdiction of this Court under Section 482 Cr.P.C for seeking the quashing of the order dated 20.11.2019 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Ellenabad (for short 'the trial Court') in Criminal Case No.128 of 2016 arisen out of the FIR bearing No.545 dated 27.12.2015 registered at Police Station Rania, under Sections 148, 149, 323, 324, 341, 506 IPC and Section 25 of the Arms Act, allowing the application moved by the complainant for adding the offence under Section 326 IPC in the charge and also of the order dated 24.12.2020 (Annexure P-2) handed down by the Sessions Judge, Sirsa (for short 'the Revisional

Court') whereby the revision petition preferred by them against the order Annexure P-1, has been disposed of.

Bereft of unnecessary details, the facts, culminating in the filing of the present petition, are that the above-said FIR had been registered against the petitioners and their co-accused with the allegations of their having caused the injuries to complainant-Madan Lal and his cousin Satpal with weapons like sword, *gandasi* and *Kapa* etc. During the investigation, accused Ravinder was found to be innocent and on the completion of the investigation, the Challan was presented in the Court under Sections 323, 324, 341, 506 read with Section 34 IPC and Section 25 of the Arms Act and the charges were framed accordingly. Accused Mange Ram is stated to have died during the pendency of the trial. The complainant moved the afore-said application with a prayer to frame the additional charge against the petitioners-accused, under Section 326 IPC as the injury inflicted on his right eyelid, had resulted in the loss of vision in the said eye to a great extent. This application was allowed vide the impugned order Annexure P-1 and the revision petition filed by the petitioners against the above-said order, has been disposed of by the Revisional Court vide the impugned order Annexure P-2 while observing that the trial Magistrate would be at liberty to appreciate the medical evidence in respect of the nature of the injuries, at the stage of final arguments and to pass the judgment accordingly.

Respondent No.1-State has filed its reply, by way of the affidavit of the Deputy Superintendent of Police, Ellenabad.

Respondent No.2-complainant, in his separately filed reply has asserted that both the impugned orders are well-reasoned and perfectly legal and hence, this petition deserves dismissal.

I have heard learned counsel for the petitioners as well as learned State counsel for respondent No.1 and learned counsel for respondent No.2-complainant in the present petition and have also perused the file carefully.

Learned counsel for the petitioners has contended that the injuries, as allegedly suffered by the afore-named complainant, have already been declared to be simple in nature and no medical record in respect of the said injury on his eyelid, being grievous in nature, was presented along-with the Final Police Report under Section 173(2) Cr.P.C/Challan and therefore, no offence under Section 326 IPC was made out in the case and in such circumstances, the impugned orders were not sustainable in the eyes of law and were liable to be quashed.

Per-contra, learned State counsel and learned counsel for respondent No.2-complainant have argued that the treatment of injury No.1, as suffered by the complainant on his right eyelid, had continued even after the presentation of the Challan and therefore, the record qua the same could not have been submitted along-with the Challan and from the said medical record, it was explicit that the complainant had suffered substantial loss of vision in his right eye due to the above-said injury which attracted the offence under Section 326 IPC and it being so, the impugned orders were perfectly legal.

The petitioners have already availed the appropriate remedy, as legally permissible/available to them to challenge the impugned order Annexure P-1, by filing the revision petition before the competent Court and as discussed earlier the said revision petition has been disposed of vide the impugned order Annexure P-2. It has categorically been observed by the Apex Court in **Ganesh Narayan Hegde vs. S. Bangarappa and Others (1995) 4 Supreme Court Cases 41** that “*where the Magistrate framed the charge against the accused after considering oral as well as documentary evidence and the revision petition against the order of the Magistrate was dismissed by the Sessions Judge, the High Court should not have acted as a Second Revisional Court nor could it enter into the merits of the case and pronounce upon the truth and correctness of the complaint or defence and it could interfere only to prevent the abuse of process of Court or otherwise to secure the ends of justice.*”

In the present case, the Revisional Court has disposed of the said revision petition while categorically observing in the concluding para of the impugned order Annexure P-2 that the trial Magistrate would be at liberty to appreciate the medical evidence in respect of the nature of injuries, at the stage of final arguments and to pass the judgment accordingly. It being so, it is quite explicit that the petitioners shall be having the opportunity to challenge the authenticity and veracity of the said medical record before the trial Court, at the appropriate stage, during the course of the trial and thus, the impugned addition in the charge would be subject to the marshalling of the evidence that may be led on the record and

the right of the petitioners would not be prejudiced at all. In these circumstances, none of the pre-requisites, as mentioned in the above-cited verdict of Hon'ble Supreme Court, stands fulfilled in the instant case so as to call for exercising the inherent powers conferred upon this Court under Section 482 Cr.P.C.

As a sequel to the fore-going discussion, it follows that the present petition, being *sans* any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

19th April, 2022
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>