

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

**CRM-M No. 46004 of 2018
Date of Decision: 07.04.2022**

Jagdish Chander

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Virender Singh Punia, Advocate
for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana

Mr. D.P.S. Bajwa, Advocate
for respondents No. 4 & 5.

Mr. Priyavrat Parashar, Advocate
for respondent No. 6.

Mr. Ravi Dutt Sharma, Advocate
for respondents No. 7 & 8.

SURESHWAR THAKUR, J. (ORAL)

1. This is a complainant's petition for a fair and taint free investigations being made in FIR No. 0113 of 16.08.2018, registered at Police Station Dandh, District Kaithal, constituting therein offences under Sections 148, 149, 323, 326, 341, 506 of the IPC.

2. The complainant has also asked further a relief, that the investigations, as are underway, into FIR (supra), be handed over to some independent agency.

3. The petition would be maintainable before this Court if the purportedly tainted investigations are yet underway. However, the petition becomes mis-constituted and would not survive, as the investigations are already complete, through institution a report under Section 173 of the

4. Since, the counsel appearing for the complainant, petitioner and for the respondent-accused, besides the learned State Counsel, all make a fair submission before this Court, that after completion of investigation into FIR (supra), an affirmative report has been filed, before the learned Magistrate concerned. Therefore, the petition with the afore relief, is not maintainable, and, is amenable for being dismissed.

5. However, the learned counsel appearing for the complainant submits, with much vigour, before this Court, that despite injuries becoming inflicted on the parietal region of the victim, and, at the instance of the accused concerned, through theirs using incriminatory weapon(s) of offence, yet the IO concerned, in his report filed under Section 173 of the Cr.P.C., has not added against the accused, and, nor in the FIR, an offence constituted under Section 307 of the IPC. If so, the remedy to make the afore addition, and, if supported by credible medical evidence, is through theirs making a motion in respect thereof, before the learned Committal Court concerned, qua its not assuming cognizance or jurisdiction upon the report filed under Section 173 of the Cr.P.C., but its committing the accused for facing trial, before the learned Sessions Court concerned, as the offence (supra) is exclusively triable as a Sessions Case.

6. The learned counsel appearing for respondents No. 7 & 8 submits that given Annexure R-1 becoming appended with the reply of the private respondents, to the petition, at hand, and, its perusal, disclosing that the afore endeavour has been resorted by the aggrieved complainant before the learned trial Magistrate concerned. Therefore, the afore grievance becomes mitigated. The learned Magistrate is directed to expeditiously and

preferably within a month hereafter, make a lawful decision thereon.

7. Disposed of.

April 07, 2022
'dk kamra'

(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>