

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(225)

CRR-1255-2016 (O&M)
Date of decision: - 02.03.2022

Devender

....Petitioner

Versus

Sukhbir and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Surinder Singh Virk, Advocate,
for the petitioner.

Mr. Gurcharan Dass, Advocate
for respondent No.1.

Mr. Munish Sharma, AAG, Haryana
for respondent No.2.

VIKAS BAHL, J. (ORAL)

The challenge in the present criminal revision petition is to the order dated 09.03.2016 vide which the Additional Sessions Judge, Panipat, had allowed the revision petition filed by Sukhbir son of Shri Lakhmi Chand (respondent No.1 herein) and had ordered the petitioner to be summoned under Section 319 Cr.P.C.

Learned counsel for the petitioner has submitted that the impugned order dated 09.03.2016 is illegal and against law, inasmuch as,

PW1 Sukhbir Singh (complainant) in his statement has although stated that the present petitioner had inflicted injuries upon the complainant with a *lathi*, on his back and chest, but the statement of the Medical Officer would show that there is no injury on the chest. It is further submitted that as per the said statement of PW-1/Sukhbir, after the injury had been given to him, he raised alarm and upon hearing the same, his son Balkar Singh came there to save him. It is further submitted that the statement of said Balkar Singh has been recorded under Section 161 Cr.P.C. (Annexure P-4) and as per the said statement, Balkar Singh had specifically stated that he does not know whether Devender son of Sultan had caused injuries to his father or not, as he did not see Devender on the spot. It is further submitted that one of the neighbours i.e one Anand had also got recorded his statement under Section 161 Cr.P.C., in which also, it has been stated that at the time occurrence, Devender son of Sultan was not there at the spot. It is argued that the present petitioner has been implicated in the case solely on account of being the brother of co-accused, namely, Satish @ Kala.

On the other hand, learned State counsel as well as learned counsel for the complainant have vehemently opposed the present criminal revision petition. It is submitted that a perusal of the statement of PW-1 Sukhbir (complainant), on the basis of which the FIR has been registered, would show that two persons have been specifically named i.e. the present petitioner and Satish @ Kala. It has also been highlighted that it has been specifically mentioned that both the brothers attacked the complainant and inflicted injuries with *lathi* and *saria*. It is further

submitted that in spite of the said specific attribution, the challan has not been presented against the present petitioner without there being any reason given in the report under Section 173 Cr.P.C., as to why, the present petitioner was not being challaned. It is also being highlighted that PW-1 appeared in the witness box and had specifically stated that the present petitioner had given injuries to him with *lathi* on his back and chest. It is also submitted that the statement of doctor as well as the MLR would clearly show that the petitioner had suffered five injuries and injury No.4 was with multiple contusions of variable sizes over upper and lower back. Further reference has been made to the medico-legal report (Annexures R-1/1 & R-1/2) to show that in fact, a fracture was also suffered on the right leg of the complainant, who is stated to be an old man of 60 years of age at the time of incident. It is submitted that the statements under Section 161 Cr.P.C. are not signed by any of the witnesses and thus, at the present stage, there is enough evidence to summon the present petitioner under Section 319 Cr.P.C. It is further submitted that the impugned order dated 09.03.2016 is a well reasoned, speaking order and is based on material on record and thus, deserves to be upheld.

This Court has heard the learned counsel for the parties and has perused the file.

It is not in dispute that the present FIR has been registered on the statement of Sukhbir-respondent No.1 (complainant), who was stated to be 60 years of age at the time of said occurrence and as per the said FIR, he had specifically named two persons i.e. present petitioner and

Satish @ Kala, who had inflicted five injuries upon him. In the FIR, the name of the present petitioner has been specifically mentioned and it has been stated that both the brothers had attacked the complainant with *lathi* and *saria*. The said complainant while appearing as PW-1 had specifically stated in his evidence that the present petitioner had given injuries by inflicting *lathi* blows on the back and chest of the complainant and all the five injuries were on his body. The statement of Dr.Pardeep Kumar, would show that five injuries had been received by complainant/respondent No.1. The relevant portion of the said evidence of Dr. Pardeep Kumar, has been reproduced as under:-

"I Dr. Pardeep Kumar, Medical Officer, Civil Hospital, Panipat solemnly affirm and declare as under: -

xxx xxx xxx xxx xxx

On examination following findings were noted.

- 1. Contusion & diffuse swelling over left leg, overlying skin was abraded.*
- 2. Abrasions over medial aspect of right leg upper part.*
- 3. Lacerated wound of size 2.5 cm x 0.5 cm over right forearm.*
- 4. Multiple contusions of variable, sizes over upper & lower back.*
- 5. Swelling & contusions over right thigh.*

All the injuries were caused by blunt weapon with probable duration within 24 hr. for injury no.1, 3, 4 & 5 x-rays were advised. Injury No.2 was simple in nature. On examination of x-ray there was fracture fibula left side which corresponds to injury No.1.

Dated: 10.9.15"

The above-said statement is also supported by the MLR (Annexure R-1/1) and report (Annexure R-1/2).

A perusal of above would show that specific injury No.4 had

been caused with multiple contusions of variable sizes over upper and lower back. There is no reason given in the report under Section 173 Cr.P.C. to on what basis the present petitioner has been exonerated. The specific observations made by the Additional Sessions Judge, on the above aspect, as reflected in para No.12 of the impugned order, have not been rebutted. The impugned order dated 09.03.2016 has been passed after taking into account the above said important aspect and after duly perusing the allegations in the FIR, statement of PW-1 Sukhbir as well as the medical evidence on record. The said order is absolutely legal and valid and deserves to be upheld.

The fact as to whether other statements under Section 161 Cr.P.C. are in favour of the petitioner, does not further the case of the petitioner as the said statements are not signed by the said witnesses and the said witnesses have not been examined as yet and at any rate, this Court is of the opinion that it is strange that while recording the said statements, benefit was sought to be given to the petitioner by the police officials in spite, of the fact that it is the specific case of complainant/respondent No.1, from the date of the registration of the FIR till date, that the present petitioner along with his co-accused, inflicted injuries upon respondent No.1.

Keeping in view the above-said facts and circumstances, the present criminal revision petition is dismissed and the impugned order dated 09.03.2016 passed by the Additional Sessions Judge, Panipat is upheld.

Nothing stated above shall be construed as a final expression

of opinion on the merits of the trial and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present criminal revision petition.

March 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes