

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

114

CRR-1449-2022 (O &M)
Date of Decision: 14.07.2022

HARI SHANKAR

...PETITIONER

Versus

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The victim-aggrieved hereinafter got instituted an FIR bearing No.147 dated 27.08.2021 at Police Station Civil Lines, Gurugram.
2. In the above FIR, offences constituted under Sections 379-B, 511/34 and 325 of the IPC (Section 325 IPC added later on), became embodied.
3. Though, after the completion of investigations into the petition FIR, the investigating officer concerned, proceeded to draw a report under Section 173 Cr.P.C., against the accused concerned, and, also made inculpations against them, under, the above referred penal provisions, besides, also, took to institute it, before the learned trial Judge concerned.

Moreover, the learned trial Judge concerned, in an order made on 31.05.2022, proceeded to draw a charge against the accused for their committing offences under Sections 325 and 379-B read with Section 34 of the IPC.

4. A reading of the order drawn on 31.05.2022, by the learned trial Judge, and, which becomes challenged before this Court, reveals, that it was made dependent upon an order made on 31.05.2022, where through, the complainant's application seeking alteration of the charge, to even the ones carried under Sections 279, 336, 338, and, 326 of the IPC became rejected. Even, the order made on 31.05.2022, upon CIS No. SC/205/2022, has become challenged before this Court.

5. Both the above orders would withstand the scrutiny of the relevant statutory provisions, only when the learned trial Judge concerned, had proceeded to, in making them, hence borne in mind, the factum as revealed in the final report appended as Annexure P-2, inasmuch as, qua the accused concerned, becoming narrated therein qua their after pushing the victim-complainant from the auto, and, his thereafter falling on to the road, their crushing his right foot through the wheel of the auto becoming driven over it.

6. However, though the learned trial Judge did bear in mind, the factum that the injuries, as became entailed upon the person of the victim, were a sequel to the above penally inculpable act, and, hence were either serious, or, grievous beside drew an apposite/thereafter charge against the accused.

7. Be that as it may, in the application preferred by the aggrieved-complainant, and, cast under Section 216 Cr.P.C., read with Section 221 Cr.P.C., despite the above echoings occurring in the final report prepared, as became presented before the learned trial Judge by the investigating officer yet, it appears that the learned trial Judge concerned, without any judicial application of mind thereto(s), rather thereafter, proceeded to irrevere the above echoings. The resultant effect thereof, is that even though, simpliciter pushing of the victim-complainant from the vehicle concerned, by the accused, and, in sequel whereto he became entailed with some injuries, may be, becoming construable, to become amenable for the drawing(s) of apposite thereto charge(s) qua the accused, but yet when after the act of the pushing of the victim-complaint from the vehicle, besides thereafter through driving(s) of the vehicle, whereon, he was stride at the relevant time, over his right foot, thereupon, the above acts did prima facie, tantamount to the accused concerned rather not adhering to the standards of due care, and, caution, while driving the incriminatory vehicle rather at a public place. In sequel the asked for charges were drawable against the accused. Moreover, the compensatory remedy qua therewith may be, besides the one encapsulated under Section 357 Cr.P.C., also the one under the Motor Vehicles Act, remedy whereof, appears to become denied to the complainant, through the making of the impugned orders.

8. In consequence, the learned trial Judge concerned, definitely fell in error, in not allowing the complainant's application hence asking for the above charges being drawn against the accused, even if the investigating

officer had in his final report, not proposed qua their drawings against the accused.

9. In the wake of the above, there is merit in the petition, and, both the impugned orders are set aside, and, the learned trial Judge concerned, is directed, to in view of the above, made discussion, to, apart from the charges proposed by the investigating officer to be drawn against the accused, under Sections 325, 379 B read with Section 34 of the IPC, rather to also draw charges against the accused for their also committing offences constituted under Sections 279, 336 and 338 of the IPC.

10. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

14.07.2022
kavneet singh

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