

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

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**CRR-363-2022 (O&M)
Date of Decision.: 10.02.2023**

Naresh and Another

...Petitioners

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Vipul Sharma, Advocate for
Mr. Kunal Dawar, Advocate for
the petitioners.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Rakesh Sobti, Advocate for
respondent No.2.

DEEPAK GUPTA, J. (ORAL)

Challenge in this petition is given to the impugned order dated 13.01.2021 whereby the petitioners have been charge-sheeted by the Court of Learned Additional Sessions Judge, Palwal under Sections 323, 506, 307, 34 of the Indian Penal Code & 3(2)(v)(a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in case FIR No.41 dated 07.02.2020 registered at Police Station Gadpuri, Palwal.

Dhan Singh is stated to have been caused injuries attracting Section 307 of the Indian Penal Code.

Learned counsel for the petitioners has drawn attention towards the medico-legal report of injured revealing two injuries on his person i.e., one on scalp and the other on thigh. Attention is then drawn towards the opinion dated 13.03.2020 obtained by the investigating agency from a Medical Board, as per which injury in question was grievous in nature but not dangerous to life.

Learned counsel for the petitioners further contended that as per the

final report under Section 173 Cr.P.C., Section 307 IPC was deleted and petitioner was sought to be prosecuted under the remaining provisions of the IPC and SC/ST Act.

Learned counsel for the petitioners does not dispute the power of the Trial Court to differ from the view taken in the final report but contention raised by him is that in case Court wanted to differ from opinion of investigating agency, then it should have given reasons. Reliance is placed upon *Amrit Singh v. State of Punjab, (Punjab and Haryana) : Law Finder Doc Id # 1526642* wherein prosecution had abandoned the case and rather recommended the discharge of the accused. However, the Court framed the charge. It was held by this High Court that it was incumbent upon the Court to have given reasons to indicate why it differed with the final recommendation of the prosecution. The impugned order was set aside and the matter was remanded back to the Trial Court to proceed as per law.

Refuting the aforesaid contentions, Learned State counsel submits that in order to attract Section 307 IPC, it is not even necessary that injury dangerous to life should be caused. It is sufficient in law that there should be intention to cause injury of such a nature which could cause murder. Still further, it is argued that at the stage of considering the charge, only the prima facie case is to be seen and evidence collected during investigation is not to be scrutinized in such a manner to come to conclusion that it will result in conviction or not.

Learned counsel for the complainant has placed on record copy of the opinion, which was taken by the investigating agency from the treating doctor on 29.02.2020, as per which injury could be dangerous to life.

Perusal of the impugned order reveals that no reasons whatsoever

have been given by Learned Additional Sessions Judge as to why he differed with the prosecution which had sought to be prosecute the accused – petitioners under Section 325 IPC and had deleted Section 307 IPC. Although detailed reasons are not required to be given at the time of consideration of charge but when the Court is differing from the view of the prosecution, then it is required to give the reasons by passing a speaking order.

In these circumstances, the impugned order is hereby set aside and the matter is remanded back to the Trial Court with the direction to give specific reasons for framing the charges under various provisions of law including the provision attracting SC/ST Act, as it is contended by learned counsel for the petitioners that said Act is not attracted to this case.

Connected applications stands disposed of.

Disposed of accordingly.

February 10, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No