

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

218

**CRM-A-1919-MA-2015
Date of decision: 15.03.2023**

Suresh Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. A.K. Khunger, Advocate
for respondents No.2 to 4.

MANJARI NEHRU KAUL, J. (ORAL)

The instant leave to appeal is preferred by the appellant/complainant (hereinafter referred to as 'the complainant') to impugn the order dated 07.09.2015 passed by learned Additional Sessions Judge, Fazilka vide which the private respondents were acquitted of the charges framed against them under Section 308 of the IPC in case FIR No.57 dated 09.04.2014 under Sections 308, 325, 323, 148 and 149 of the IPC registered at Police Station City-I, Abohar.

As per the allegations levelled in the FIR on 03.04.2014, at about 10:30 A.M., the complainant was present at his home along with his family members. On being called by respondent No.2-Sonu Singh, he went outside. He found respondent No.2-Sonu Singh standing armed with a iron pipe, responder No.3-Jung Singh @ Bittu armed with handle of a hand pump, Veeru and Ganja sons of Bittu armed with brick bats and respondent No.4-Surjit Kaur @ Moto wife of respondent No.3

armed with a stick standing outside his house. All the accused forcibly entered the house of the complainant. Respondent No.2-Sonu Singh and respondent No.3-Jung Singh @ Bittu thereafter inflicted injuries on the left side of the head of the complainant with their respective weapons. When the daughter-in-law of the complainant namely Pooja Rani tried to Rush to the rescue of the complainant, respondent No.4-Surjit Kaur @ Moto gave a stick blow on right side of her head and Veeru gave a brick bat blow on her right shoulder. Ganja also inflicted a brick bat blow on the nose of the complainant. After inflicting the above injuries all the accused escaped along with their respective weapons.

Learned counsel for the complainant has reiterated the allegations levelled in the complaint and the submissions made by him before the Court below. He has submitted that a perusal of the allegations levelled in the FIR as well as the evidence led, including the medical evidence, leave no manner of doubt that an offence under Section 308 of the IPC had been committed by the private respondents/accused, however, the learned Court below had gravely erred in ignoring all the relevant evidence while passing the impugned order.

Learned counsel for respondents No.2 to 4 accused on the other hand, has submitted that as per the FIR and the deposition of the complainant himself the injury inviting the mischief of Section 308 of the IPC i.e. brick bat blow, was not specifically attributed to any of the respondents accused, rather it had been specifically attributed to Veeru and Ganja, during the deposition of the complainant, both of whom

were tried by the Juvenile Justice Board. He submitted that in the aforementioned facts and circumstances, the Trial Court did not fall into error while acquitting the respondents/accused of the charges framed under Section 308 of the IPC.

I have heard learned counsel and perused the relevant material on record.

This Court concurs with the submissions made by the learned counsel for respondents No.2 to 4. In the instant case, no evidence much less cogent was led from which it could be shown that the injury sustained by the complainant on his nose had been caused with an intention/knowledge that it could have caused death of the complainant. Furthermore, admittedly none of the respondents accused were specifically attributed the injury on the nose of the complainant. All this has to be appreciated in the light of the fact that the injuries inviting the mischief of Section 308 of the IPC were attributed to co-accused Veeru and Ganja who were tried before the Juvenile Justice Board.

As a sequel to the above, the instant leave to appeal being devoid of any merit is dismissed.

15.03.2023

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(MANJARI NEHRU KAUL)
JUDGE

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