

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.121

Case No. : CRM-M-9818-2023

Date of Decision : February 23, 2023

Raj Kumar

.... Petitioner

vs.

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Sushil Sheoran, Advocate
for the petitioner.

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GURBIR SINGH, J. :

This is a petition under Section 482 Cr.P.C. for quashing of impugned orders dated 06.01.2023 (Annexure P-6) passed by learned Judicial Magistrate Ist Class, Bhiwani and order dated 03.02.2023 (Annexure P-8) passed by learned Additional Sessions Judge, Bhiwani, whereby both the Courts dismissed the application dated 20.10.2022 filed under Section 216 Cr.P.C. (Annexure P-5) for addition of charge under Section 452 IPC against respondents no.2 to 6 in case FIR No.111 dated 25.02.2016, under Sections 147, 149, 323, 341 IPC, registered at Police Station Bhiwani Sadar, District Bhiwani (Annexure P-1). Further prayer for adding charge under Section 452 IPC in the aforesaid case has also been made.

It has been argued by learned counsel for the petitioner that the occurrence took place in the house of the complainant but the learned Trial Court failed to frame charge under Section 452 IPC. The complainant along

with injured and eye-witnesses have been examined as prosecution witnesses. In their statements, they have categorically stated that the occurrence took place in the house of the complainant and the accused persons gave beatings to them and thereafter, dragged them outside the house.

Heard.

The case in question was registered on the statement of complainant Raj Kumar. The extract of the FIR is as under :-

“.....When I just reached my house, then Parveen S/o Vijay, Anoop S/o Vijay, Pushpinder S/o Bhagirath caste Brahmin had already called Kaliya S/o Prem Singh, Bani Singh S/o Jug Lal, Ajay S/o Bani Singh, Satva S/o Vijaypal, Manoj S/o Pappu, Harlal Gujjar, Tola Gujjar caste Gujjar resident of village Keharpura and 5-6 other boys came. Then Parveen gave a rod blow on my head and all caught hold and dragged me and caused the injuries by lathi, danda, legs and fist blow. On hearing the noise, my mother came, then they also gave the abuses to her. Then my uncle Suresh S/o Panna Dutt Brahmin and Ramparshad S/o Shishpal Brahmin R/o village Keharpura came there to save me. Then they also caused injury with their lathi and danda to them and regarding their injury, they will disclose.”

On the basis of the FIR registered, it cannot be said that the occurrence took place in the house itself. Rather, the statement of the complainant is to the effect that he reached the house. Reaching the house and going inside the house are two different situations. During

investigation, the police did not find that the occurrence took place inside the house of the complainant. Similar statement was made by complainant as PW-2 in his examination-in-chief. The learned Judicial Magistrate Ist Class, Bhiwani gave a definite finding that in the statement of the complainant, along with eye-witnesses, there is not even a single word regarding the alleged incident/fight having taken place inside the house of the complainant. Therefore, the application for adding charge under Section 452 IPC was dismissed being devoid of merits.

The learned Additional Sessions Judge, Bhiwani, finding no illegality or infirmity in the above said order, confirmed the order passed by learned Judicial Magistrate Ist Class, Bhiwani.

Learned counsel for the petitioner has failed to show how, at this stage, it can be said that charge is required to be amended. No doubt, under Section 216 Cr.P.C., charge can be amended at any stage, but there is nothing on record to show that charge is required to be amended at this stage.

Accordingly, finding no merit in the instant petition, the same is hereby dismissed in limine.

However, it is made clear that the concerned Court is free to amend the charge, if necessary, at any stage of the case, in accordance with law.

February 23, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>