

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

CRR-754-2022

Reserved on: 28.03.2023

Date of Pronouncement: 17.04.2023

Sukhjeet Singh

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jatinder Pal Singh, Advocate for the petitioner

HARKESH MANUJA, J.

By way of present revision petition, petitioner has impugned the Order dated 15.09.2021, vide which an application under Section 228 (1) (a) of Code of Criminal Procedure Code, 1973 for framing of charges under Section 323 of IPC in substitute of 307 of IPC along with other sections as mentioned in FIR No. 230 dated 23.11.2020 at Police Station Dharamkot, Distt. Moga, has been dismissed and charge has been framed under Section 148, 307, 332, 353, 186, 342, 188, 149 of IPC vide order dated 15.09.2021.

Brief facts of the present case are that the aforementioned FIR was lodged on the statement of SI Guljinderpal Singh that on 03.01.2020 to the effect that he along with other police officials was present at Police Station Dharamkot, when MHC informed him that a red colored Tata Pick-up vehicle bearing No.JH-05/BC-8680 and silver colored Innova vehicle bearing No.DL-04/CAE-5773 have reached outside the Police Station with some Nihang Singhs and that main gate of Police Station has been locked by them. SHO along with other police officials went to main gate and found Sukhjit Singh Khosa

(present petitioner), resident of Lohian, District Jalandhar; Tarsem Singh, resident of Bharat Mothla, District Gurdaspur, Jashandeep Singh, resident of Singhewala, District Sri Muktsar Sahib, Harbhajan Singh, resident of Kamala Midhu, District Ferozepur; Gurmeet Singh, resident of Lalle, District Ferozepur; Sandeep Singh, resident of Village Rehrawan; Baljinder Singh, resident of Village Rehrawan; Gurmail Singh and Babbu Singh, residents of Data and 15-20 unidentified persons armed with barshas and kirpans present at main gate of Police Station. They were raising slogans against police for not arresting accused persons in a murder case bearing FIR No.219 dated 3.11.2020 under Sections 302,307,148,149 IPC and 25,27 Arms Act Police Station Dharamkot. SHO tried to pacify protesters that main accused stands arrested and raids are being conducted to arrest the remaining accused. Sukhjit Singh Khosa and Sandeep Singh Sarpanch instead started provoking the persons present there and raised lalkaras to teach a lesson to the police for not arresting the accuseds. Sukhjit Singh Khosa gave blow with a sharp pointed weapon on the head of complainant. Sandeep Singh Sarpanch gave a dang blow aimed at head of complainant but hitting his left hand. Gurmail Singh and Babbu along with other accomplices inflicted injuries upon remaining police officials. Uniform of HC Krishan Gopal was torn. Crowd scuffled with police officials causing police to use minimum force in self defence. Which caused minor injuries on the persons of protesters. Thereafter protesters went away from the spot after leaving their vehicles and weapons at the spot.

On the basis of this statement, FIR No. 230 dated 23.11.2020 at Police Station Dharamkot, Distt. Moga, was registered

under Section 148, 307, 332, 353, 186, 342, 188, 149 and subsequently Investigation report dated 26.11.2020 under Section 173 Cr.P.C. was filed in the Court as per which, accused Sukhjit Singh in furtherance of common object of co-accused has given blow of sharp edged weapon on the head of SI Guljinderpal Singh.

During trial, An application under Section 228(1)(a) of Cr.P.C. 1973 was filed by the petitioner before the Ld. Additional Session Judge, Moga, for framing charge under Section 323 IPC in substitute of 307 IPC along with other Sections as mentioned above and for order to transfer the case for trial to lower competent court having jurisdiction for trial. This application was dismissed vide order dated 15.09.2021 and charges were framed under Section 148, 307, 332, 353, 186, 342, 188, 149 of IPC. It is this order dated 15.09.2021 which has been impugned by way of present revision petitioner.

Learned counsel for the petitioner contends that Ld. Additional Sessions Judge, while dismissing the application has ignored the fact that complainant has influence over the investigation officer and the alleged injuries suffered by him were declared non grievous and simple in nature. He further submits that in the present case it is on record that petitioner along with other persons was protesting in front of the Police Station against inaction of the police in another case and their motive of protest was that police should take action and arrest the accused in FIR No. 219 dated 03.11.2020 and there was no intention of the petitioner or any other protestor to cause any injury to anybody, therefore, the order dated 15.09.2021 should be set aside and the application filed by the petitioner be allowed.

I have heard learned counsel for the petitioner and gone through the paper book of the case as well but I do not find any substance in the argument raised by the learned Counsel for the petitioner. In view of numerous judgments of Hon'ble Apex Court, as noted by the learned Additional Session Judge even, It is settled preposition of the law that while framing charge u/s 307 of IPC, what the Court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in this section and It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof. Proof of grievous or life-threatening hurt is not a sine qua non for the offence u/s 307 of the IPC and intention of the accused can be ascertained from the actual injury, if any, as well as from the surrounding circumstances.

Now we need to apply the above stated position of law in the factual matrix of the present case. As per the contents of FIR, petitioner accused Sukhjeet Singh has given a blow of sharp-edged weapon on the head of SI Guljinderpal Singh. This fact is corroborated from MLR as well which reveals that two injuries were found on the person of complainant SI Guljinderpal Singh and one of them is on the head i.e. lacerated wound of 5 x 1 cm over center of head. Injury has been caused on the vital part of the body and among other things, considering the nature of the weapon used and the severity of the blow inflicted, this Court is satisfied that prima-facie case under Section 307 IPC is made out.

In view of the discussion held above, present revision petition is dismissed, warranting no interference with the order dated 15.09.2021, passed by the learned Additional Session Judge, Moga.

Pending applications, if any, are also disposed of in view of the discussion held above.

17.04.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No