

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

250

CRR-2427-2022 (O&M)

DATE OF DECISION : 01.08.2023

RAMESH

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Baljeet Beniwal, Advocate,
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

Mr. Anmol Partap Singh Mann, Advocate,
for respondents no.2 to 6.

ARUN MONGA, J.(ORAL)

1. Challenge herein is to order dated 14.09.2022, passed by learned Additional Sessions Judge, Palwal, whereby the charges framed against respondents no.2 to 6, were only under Section 323, 325, 148 read with Section 149 of the IPC and Section 25 of the Arms Act, and not under Section 307 of the IPC, owing to which it is liable to be set aside.

2. Learned counsel for the petitioner submits that not framing of charges for the offence of attempt to under Section 307 IPC even in such a murderous assault and framing charges for lesser offences is rather disproportionate to the gravity of situation and the offence and this has caused irreparable injury to the complainant and the injured Mahesh in particular and to the public at large in general specially where the injured suffered statement under Section 161 Cr.P.C.and specifically alleged the role of the accused persons. He further submits that from the perusal of the disclosure statements of accused persons, it becomes

crystal clear that respondent no.2/accused-Vikram had grudges against the injured Mahesh and owing to such grudge, respondent no.2 conspired with the other accused persons and made a murderous assault at injured Mahesh in a well planned manner and they would have killed injured Mahesh, had the people, not gathered there intervened and saved him.

3. On the other hand learned counsel appearing for respondents no.2 to 6 submits that the learned trial Court did not find grounds framing charge under Section 307 of the IPC and consequently, returned the case to Court of learned Illaqa Magistrate for trial vide order dated 14.09.2022.

4. I have heard learned counsel for the parties and perused the case file.

5. After appreciating the evidence on record, vide impugned order dated 14.09.2022, learned Court below passed the impugned order *inter alia*, premised on the following reasoning:-

“On perusal of the medical opinion obtained by the 10 on 18.02.2020, it transpires that there was no firearm, discharge and residue found. Thus, no firearm was used to inflict injuries. One fracture was observed of injury No.3 and injury was held to be grievous in nature.

Furthermore, on perusal of the MLR of injured, it transpires that he had suffered three injuries i.e lacerated wound on right shoulder, lacerated wound on front bone region, lacerated wound on right leg. No opinion with regard to kind of weapon has been given, though alleged that injuries inflicted by giving blows of the iron rod and hammer. Had it is true, then the injury would have been suffered all over his body. Further, as per the allegations, no one came between to rescue the injured. Had the accused persons have to cause death, they would have done. Moreover, no used cartridge was recovered from the site of incident. Furthermore, the accused were in two vehicles as per the complaint's they could have run over the brother of the complainant and they had ample opportunities to do so. Thus, from the act and conduct of the accused at the time of commission of offence and subsequently, it cannot be said that they had any intention to kill him, though they had intention to teach him a lesson by inflicting injuries. Therefore, from the totality of allegations read with medical report and opinion available on record, the court is of the view that the offence u/s 307 of IPC is not made out. All other offences made out against the accused i.e 323, 325, 148, 149 of IPC and 25 of Arms Act are triable by the Court of Judicial Magistrate First Class. Therefore, case file be sent back to the concerned court of Judicial Magistrate Ist Class, Hodal to proceed in ac-

cordance with the law. Accused shall appear before the concerned court at Hodal on 20.09.2022. File complete in all respect be sent back immediately”.

6. Perusal of the aforesaid shows that the impugned order is based on cogent reasoning after appreciating the evidence on record in right perspective.
7. In the instant case, findings recorded by learned trial Court are based on correct appreciation of evidence and do not suffer from any infirmity and perversity much less illegality. Thus, no grounds for interference are made out.
8. Faced with the situation, learned counsel for the petitioner on instructions submits that in case subsequent evidence comes forth during the course of the trial the petitioner may be permitted to either raise the objections or seek framing of additional charge in accordance with law.
9. Instant revision petition is hereby dismissed, with the aforesaid liberty.
10. Pending application(s), if any, shall also stand disposed of.

01.08.2023

‘D’Vir/R

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ARUN MONGA)
JUDGE