

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

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CRM-M-60006-2022

Date of decision: 11.05.2023

SAJJAN KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Nipun Vashist, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.(ORAL)

This petition has been filed under Section 482 Cr.P.C. with a prayer to quash the order dated 04.06.2014 (Annexure P-3) passed by Judicial Magistrate First Class, Rewari dismissing the complaint filed by the petitioner and judgment dated 14.03.2014 (Annexure P-2) passed by Additional Sessions Judge, Rewari, whereby the matter was remanded back to the trial Court for passing a fresh order.

The factual matrix of the present case is that on 19.03.2008, the petitioner filed a criminal complaint under Section 147, 149, 190, 218, 323, 325, 328 and 506 of IPC alleging that respondents No.2 & 3, who are doctors by profession, running a hospital in the name of Dr. Ved Parkash Hospital and Lapro Scopic Centre, near bus stand Model Town, Rewari. On 03.03.2008, the petitioner visited the hospital of respondent No.2 to take medicine for gastric pain but he started vomiting after intake of medicines and again visited the said hospital on the same date but he was not examined, thereafter, he went to some other doctor for taking medicines. On

05.03.2008, petitioner along with his brother-in-law and brother visited respondent No.2 for treatment but due to scuffle with respondent No.2, he himself along with other persons gave beatings by kick and fist blows to the petitioner. In the complaint, accused were summoned to face trial under Sections 323 & 506 IPC vide order dated 06.12.2013 passed by Judicial Magistrate First Class, Rewari. Against the summoning order dated 06.12.2013, revision petition was filed by the accused-Respondents No.2 & 3 and the same was accepted vide judgment dated 14.03.2014, wherein the Additional Sessions Judge, Rewari after accepting the revision petition, directed the trial Court to pass a fresh order. Thereafter, vide order dated 04.06.2014 (Annexure P-3), in compliance of directions issued by the Additional Sessions Judge, Rewari, the trial Court while passing the fresh order dismissed the complaint with the observation that no prima facie evidence was found against the respondents for summoning them under Sections 323, 506 and 34 of IPC. Aggrieved by the said judgment dated 14.03.2014 and order dated 04.06.2014, the present petition has been filed seeking quashing of the same.

Learned counsel for the petitioner contends that both the Courts below failed to consider that there is ample evidence on record to prove the culpability of the private respondents even the oral evidence which is supported by the medical evidence but still the judgment and order passed by the Courts below are non-speaking, illegal and not sustainable in the eyes of law which deserves to be set aside.

On receipt of advance copy, Mr. Bhupender Singh, DAG, Haryana has put in appearance on behalf of respondent No.1-State and submits that the trial Court has rightly dismissed the complaint filed by the

petitioner as prima facie no evidence was found against the private respondents for their summoning under Sections 323, 506 & 34 of IPC whereas while passing the fresh order, the matter was examined afresh on the basis of available evidence and the complaint has rightly been rejected.

Having heard learned counsel for the parties, after perusal of the judgment and order passed by both the Courts below while accepting the revision petition Additional Sessions Judge, Rewari observed in the judgment dated 14.03.2014 that as alleged in the complaint, the petitioner was medically examined at General Hospital, Rewari and then he reported the matter to Police also on which DDR No. 33 was lodged. Earlier, there was no allegation at all that petitioner was criminally intimidated by the doctor and his staff and there was no whisper at all to summon the respondents No.2 & 3/revisionists under Section 506 of IPC. Also, the Additional Sessions Judge, Rewari observed in the judgment that the petitioner failed to give an explanation if petitioner was criminally intimidated by the respondents No.2 & 3 and other accused then how the main ingredient to attract such offence was missing from DDR. While examining the second allegation about the beatings by 04 persons with kick and fist blows, the Additional Sessions Judge observed that there was no external mark of injury and only complain of pain of 03 injuries was there, where no duration of pain was mentioned in the MLR. It is also mentioned that the petitioner made a statement that he suffered fracture in his right hand but there was no such fracture and the Additional Sessions Judge concluded that the petitioner is not a trustworthy witness and false allegations were leveled against the respondents No.2 & 3 just to aggravate the situation as nothing as such was mentioned in the DDR also.

Keeping in view the material available on record, the revision petition was accepted and direction was issued to pass a fresh order. Thereafter in pursuance to the same, a fresh order dated 04.06.2014 was passed by the trial Court vide which the complaint filed by the petitioner was dismissed on the ground that no prima facie evidence was found against the respondents No.2 & 3 for summoning them under Sections 323, 506 and 34 of IPC. Moreover, the present petition has been filed after the gap of 08 years.

In the light of the judgment dated 14.03.2014 and order dated 04.06.2014 passed by both the Courts below, the present petition is devoid of merits and is hereby dismissed.

May 11, 2023
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(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No