

S. No.114

2024:PHHC:014183

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19507 of 2017

Date of Decision:01.02.2024

Gurnek Singh and others

.....Petitioners

Vs.

Palwinder Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rahul Bhargava, Advocate for the petitioners.

Mr. Akhil Kashyap, Advocate for Mr. P.K. Kataria,
Advocate for the respondent.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioners pray to quash order dated 01.04.2017 passed by learned Additional Sessions Judge, Amritsar whereby Criminal Revision No.2/28 of 2017 titled “Palwinder Singh Vs. Gurnek Singh Patwari and others”, was allowed and the case was remanded back to the trial Court to pass fresh order in complaint No.28 of 2013 (Annexure P.1).

Learned counsel for the petitioners contends that in respect of alleged occurrence of 25.11.2013 in which petitioners allegedly caused injuries to respondent and snatched his ring, complaint Annexure P.1 was filed by the respondent- complainant to summon and prosecute the petitioners – accused under Sections 326/323/341/382 and 506 read with Section 34 IPC. After recording preliminary evidence, learned trial Court vide its order dated 26.10.2016 (Annexure P.2), ordered summoning of the petitioners only under Section 323 IPC and dismissed the complaint in respect of offences under Sections 326, 341, 382, 506/34 IPC.

The afore-said order dated 26.10.2016 was challenged by the respondent – complainant before the Court of Sessions by filing revision Annexure P.3. Learned Additional Sessions Judge, Amritsar by way of the impugned order dated 01.04.2017, set aside the order of learned Magistrate and remanded back the case to the trial Court with the direction to pass fresh order after considering the medical evidence on record.

Learned counsel for the petitioners contends that the impugned order dated 01.04.2017 as passed by learned Additional Sessions Judge, Amritsar is without application of judicious mind because CW2 Dr. Satnam Singh Gill clearly stated that opinion regarding nature of injuries was lying with the Medical Board constituted by the CMO, Amritsar. Learned counsel further contends that as per the MLR, out of four injuries, injury No.1 was kept under observations whereas the remaining injuries were declared as simple. Learned counsel contends that in these circumstances, there was no justification to set aside the well-reasoned order of learned Magistrate.

After hearing learned counsel for the petitioners, this Court finds the present petition to be meritless. Learned Additional Sessions Judge, Amritsar by way of the impugned order has referred to the statement of CW2 Dr. Satnam Singh Gill (copy Annexure P.5) in which he clearly stated that as per the X-Ray report in respect of injury No.1, there was a cut fracture in tibia, which was grievous in nature and since this injury was caused by a sharp edged weapon, so injury No.1 appeared to be falling within the purview of Section 326 IPC. It is only after making these observations that the matter was remanded back to the Magistrate with the direction to pass fresh order after considering the medical evidence on record.

Simply because the opinion regarding nature of injuries was lying with the Medical Board constituted by CMO, Amritsar could not be a reason not to remand the matter to the Magistrate, having regard to the statement made by CW2 Dr. Satnam Singh Gill.

As such, finding no merit in the present petition, the same is hereby dismissed.

However, it is made clear that after passing of the fresh summoning order by the trial Court, pursuant to the impugned order passed by the learned Additional Sessions Judge, Amritsar in case petitioners are not satisfied, they will be at liberty to assail the same in accordance with law, if they so wish.

February 01, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No