

CRR-1366-2018**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****CRR-1366-2018****Date of decision : May 03, 2024**

Malkit Singh and others

....Petitioners

VERSUS

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr.KB Raheja, Advocate, for the petitioners
Mr. Raghav Garg, DAG, Punjab
Mr. Padamkant Dwivedi, Advocate, for the complainant

KULDEEP TIWARI,J. (ORAL)

1. The grievance caused to the petitioners to maintain the instant revision petition, is the order dated 9.3.2018, by which the learned trial court concerned has ordered to frame charges against the petitioners for offences punishable under Sections 308,323,34 IPC, and served the charge sheet on the same date, to the petitioners.

2. Learned counsel for the petitioners has not argued with regard to framing of charges under Sections 323, 34 IPC.

3. The pivotal issue which requires consideration is that, whether, on perusal of the entire material, as collected by the Investigating agency, after conclusion of the investigation, and has been placed on record by way of final report before the learned trial

court concerned, would attract the provisions of Section 308 IPC, or not. For that, it is relevant to refer to the allegations, which propel the learned trial court to frame the charges under Section 308 IPC. The relevant extract of the statement of Kulwant Singh, which was the basis of registration of the FIR No. 160 dated 10.11.2016, under Sections 308,323,34 IPC, Police Station Ghall Khurd, District Ferozepur, is read as under:-

“Statement of Kulwant Singh son of Balwinder Singh, Caste Mazhbi Sikh, resident of Bholu Wala, aged about 23 years mobile No. 98725831203 to the fact that I am resident of the abovesaid address and labourer. On 6.11.2016, I went to work as usual. At about 3 p.m. my sister Amardeep Kaur told me on phone that their father Balwinder Singh was beaten by Thandu son of unknown, Lal Singh son of unknown, Darshan Singh son of unknown, resident of Bholu Wala. On hearing this, I was coming to my house when I reached near the house on motorcycle then Lal Singh armed with iron pipe, Thandu armed with iron pipe and Darshan Singh armed with soti were standing. They stopped me and Lal Singh gave an iron pipe to me on the pinjini of left leg. Thandu gave two blow of his armed pipe on my left knee and on foot. I fell down and Darshan Singh gave a soti blow on the back side of me. I raised the noise and accused ran away with their respective weapons. My mother Charanjit Kaur after arranging the vehicle got me, my father and sister admitted in the hospital where Doctor Sahib got my father

Balwinder Singh admitted and me and my sisters were treated. Yesterday on 9.11.2016, my father was referred to Guru Gobind Singh Medical College, where he is under treatment. I have heard my statement which is correct. Action be taken. Accused caused the injury to my father with the intention to kill.”

4. On perusal of the FIR, (supra) it is clearly reflected that the petitioners were armed with iron pipes and sticks, and attacked upon the complainant Kulwant Singh.

5. Lal Singh, who is petitioner no. 3, gave blow of iron pipe on left calf muscle, Thandu gave two iron blows on left knee and foot of the complainant. Thereupon, the complainant fell down, and Darshan Singh gave stick blows on the back of the complainant. Due to the said act of the petitioners-accused, the complainant suffered the following injuries:-

“1. Lacerated wound of size 4x0.5 cm on the right parietic frontal tragus of right ear. Bleeding present. Advise x-ray skull.

2. Lacerated wound of size 8 cm x 2.5 cm on the right parietic frontal region 14 cm from tragus of right ear. Advice X-ray

3. Swelling of size 8 cm x 7 cm present on right side of forehead just above the eyebrow. Advice x-ray skull. No h/o LOC / ENT bleed / surgeries / loss of consciousness.

4. C/o pain the occipital region of forehead. O/c no external mark of injury.

5. C/o pain in the neck region – posturally O/c no

external marks of injury.

6. Contusion obtain in colour 7 cm x 6 cm on rt. forearm poster medial 13 cm from it shoulder.”

6. It transpired from the medical reports that all the injuries, as suffered by the complainant are subsequently declared as simple in nature. From the co-joint reading of the allegations against the petitioners, as well as the injuries suffered, this Court is *prima facie* of the view that the ingredients requiring the petitioners to face the charges under Section 308 IPC, are absent.

7. From the perusal of the impugned order, it transpired that it is a total non speaking order, and no reason whatsoever, has been assigned for framing of charges under Section 308 IPC, against the petitioners. Though it is trite law that at the time of framing of charge, the learned trial court concerned is not required to give detailed reasons. However, it is the essential duty of the learned trial court concerned to at least evaluate the material upon which the trial court proceed to frame charges.

8. This Court can safely conclude that no such activity was exercised by the learned trial court concerned, rather the impugned order was passed in a mechanical manner. Therefore, this Court deems it fit and appropriate at this stage, to set aside the order of framing of charges. However, the lis is remanded back to the learned trial court concerned, to consider the entire issue afresh, and thereupon, pass fresh orders after considering the entire

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material on record to form an opinion, whether the petitioners are required to be put on trial for the offences under Section 308 IPC.

9. It goes without saying that the above observation made is only for the purpose of evaluation of the legality of the impugned order, therefore, the learned trial court shall independently decide the issue of framing of charge after evaluating the entire material before it.

10. **Disposed of accordingly.**

May 03, 2024

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(KULDEEP TIWARI)
JUDGE

<i>Whether speaking/reasoned ?</i>	Yes/No
<i>Whether Reportable ?</i>	Yes/No