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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46842-2024

Date of Decision : 05.12.2024

Rajbir Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG Punjab

KIRTI SINGH, J.(Oral)

The present petition has been filed under Section 582 Cr.P.C for issuance of direction to respondent No.2 to look into the representation dated 08.08.2024 (Annexure P-5) and to direct respondent No. 3 to obtain an opinion from the Board of Doctors regarding the injury attributed to the petitioner and further to proceed with the same as per law in case FIR No. 105 dated 17.06.2023 under Sections 323, 324, 341, 34 IPC (Section 325/326 IPC added later on) at Police Station Beas, Amritsar.

2. The contents of the above-mentioned FIR are reproduced herein below :-

“Statement of Sarwan Singh Son of Jagir Singh Resident of Wazir Bhullar Police Station Beas Age 45 Years Mobile Number. 0015128039 stated that I am a resident of the abovesaid address and working agricultural work. We are 3 brothers. I am the elder and 2 are younger than me. Who reside at abroad and one brother namely



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Amandeep Singh returned to village. Our residence is out of the fields and there is vacant Brick-Kiln (Bhatta) land near to our house upon that share alienation dispute are going on between us and Uncle Kashmir Singh family. On dated 02-06-2023, I was present at my house, time around 9:30 AM, Rajbir Singh son of Kashmir Singh armed with Daang, Arsdeep Singh son of Sarabjit Singh, armed with Datar, Jaskaran Singh son of Rajbir Singh, armed with Daang, Sukhraj Kaur wife of late Kashmir Singh, all residents of Wazir Bhullar and they all came with JCB machine and 2 tractor trolleys to pick up the debris or trash over the vacant kiln land. Then I went to them and said that the decision is yet pending regarding share of this disputed land, so you cannot pick up the debris with such a force, then my aunt Sukhraj Kaur raised lalkara that teach him a lesson for interfering in our every work. Then Rajbir Singh hit me twice with his handheld daang which hit on my left side face and on nose, then Arsdeep Singh hit me with his handheld Datar which hit on my left leg, then Jaskaran Singh hit me with his handheld Daang which hit on my head. I raised rola (Maar dita Maar dita) and they dragged me a lot and stopped me. I tried hard to ran away from the spot, but they kept beating me and did not let me go from the spot. Then my wife Sukhjit Kaur and brother Amandeep Singh came and rescued me from them and arranged a taxi and admitted me to Civil Hospital at Baba Bakala Sahib where I was admitted for a long time and the respectable persons trying to compromise the dispute but same did not get matured. Today I came alongwith my brother Amandeep Singh to report you. Legal action should be taken. Sd Sarwan Singh Attested Sawinder Singh SI PS Beas Date 16-6-2023 Action Police: Today Man SI along with ASI Surinderpal 1232, PHG Gurmej Singh 20097.”

3. Learned counsel for the petitioner *inter alia* submits that as per the allegations in the FIR the petitioner Rajbir Singh was carrying a wooden stick at

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the time of occurrence in question and one injury on the nose of complainant is attributed to the petitioner which has been declared grievous in nature. As many as four injuries were caused on the person of the complainant and the other injuries have been declared as simple in nature. He further submits that initially the FIR was registered under Sections 323, 324, 341 read with Section 34 of IPC, however later on the basis of an opinion of the concerned doctor, offence under Section 325 IPC was added vide DDR No. 34 dated 12.07.2023. He further submits that thereafter, the DSP, Baba Bakala without taking any opinion from the Medical Board, opined that the offence under Section 326 IPC is made out and directed the concerned Investigating Officer to delete the offence under Section 324 IPC and to add offence under Section 326 IPC, the said direction of the DSP, Baba Bakala to the Investigating Officer is totally uncalled for. The SSP, Rural also without appreciating the facts of the case gave his approval. Even no opinion was taken on this point either from the Medical Board or from the D.A. Legal which is against the law and, thus, the addition of an offence under Section 326 IPC is liable to be deleted as the injuries, if any attributed to the petitioner, is blunt which falls under Section 325 IPC. The offence under Section 326 IPC has been added so that the petitioner may be tried for a major offence which he has not committed.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner and submits that after registration of the aforesaid FIR, an investigation was commenced by SI Sawinder Singh, who inspected the place of occurrence, prepared its rough site plan and recorded the statement of witnesses. He also received the medico-legal report of the complainant Sarwan Singh i.e. MLR Nos. 236/AKK/CHBBS/2023 dated 02.06.2023. The relevant findings of the aforesaid medico-legal report are



reproduced as under.-

Sarwan Singh

Sr. No.	Injury Details	Injury No.
1.	2. 5cm x 0.5 cm lacerated wound on nose 2cm below root of nose. Fresh bleeding present. Injury bone deep.	1
2.	Lacerated wound 4cm x 1cm on left side of face 2cm below left eye, 6cm from midline. Fresh bleeding present.	2
3.	Incised wound 6cm x 1.5cm oblique wound on right lower leg 10cm above right ankle joint. Fresh bleeding present. Injury bone deep.	3
4.	C/o pain on top of scalp in midline. No external visible injury.	4
Nature of injuries (simple, grievous, dangerous): Pending for observation		
Subject to investigation and CT Scan: Head and face		
Probable Duration of injury: Within 6 hours		
Kind of weapon used (Sharp, Blunt, Firearm, Fire, Position etc): Blunt for injury No. 1, 2 and 4 Sharp for injury No. 3		

5. Learned State counsel further submits that during the investigation, the injury caused by the petitioner was declared grievous in nature by the doctor, hence, Section 325 IPC was added in the present case vide G.D No. 34 dated 12.07.2023. Further an application No. 321-AP/FIR dated 30.06.2023 was filed by the Sarabjit Singh, brother of the petitioner for the fair investigation of the case and to cancel the case being registered on wrong facts. The aforesaid representation was marked to the then Deputy Superintendent of Police, Sub-division Baba Bakala Sahib, Amritsar (Rural), who recommended for the deletion of Section 324 IPC and addition of Section 325 IPC but the aforesaid recommendation was not approved by the respondent No. 2 and further investigation was marked to Assistant Superintendent of Police. During investigation, the Assistant Superintendent of Police, Amritsar (Rural) recommended for the addition of Section 326 IPC, as injury No. 1 which was declared as grievous in nature and

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was approved by the then Senior Superintendent of Police, Amritsar (Rural). He further submits that the case is still under consideration and the challan has not yet been presented.

6. Heard the rival submissions made by learned counsel for the parties.

7. The injury attributed to the petitioner was declared grievous by the concerned doctor, which was duly received by the investigating agency and Section 326 IPC was added pursuant to this opinion. The final report in the above stated FIR is yet to be presented as the case is still under consideration.

8. In view of the aforementioned submissions made by learned counsel for the parties and considering the fact that the case is still under the consideration and the final report has not been presented, this Court is not inclined to pass any direction as prayed by the petitioner.

9. Accordingly, the petition is dismissed.

05.12.2024

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**(KIRTI SINGH)
JUDGE**

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