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

CRM-M No.57123-2024

Date of Decision:-18.11.2024

RABIYA @ RABIA

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Ashish Gupta, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

SANJIV BERRY, J (ORAL)

1. Instant petition has been filed under Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of the order dated 24.09.2024 (Annexure P-7) passed by learned Additional Sessions Judge, Palwal, dismissing the criminal revision preferred against order dated 04.01.2024 (Annexure P-5) passed by learned Sub-Divisional Judicial Magistrate, Hathin in case FIR No. 128 dated 01.04.2023 registered under Section 148, 149, 323, 452, 506 IPC (Section 307 and 325 IPC added later on) at Police Station Hathin, District Palwal (Annexure P-1), whereby the application moved by the petitioner for directing the concerned Investigating Officer for taking re-medical/re-opinion in respect to the injuries sustained by respondent Nos.2 and 3 namely Hayat Khan and Amina from the Board of Doctors, had been declined.

2. Brief facts of the case as per the FIR in question are that respondent No.2/Hayat had given a complaint stating that he had a pond in the village Durenchi for fishing and Dindar (husband of the petitioner) had also taken a pond on lease near his pond, wherein he had secretly laid pipes in his pond due to which number of fishes were decreasing in his pond. On suspicion, respondent No.2/Hayat entered the pond of Dindar and found that he had laid pipes wherefrom the fishes were going to his pond. He made a complaint to the police in this regard upon which the police came and photographed the site on 29.03.2023. Infuriated upon this, accused Dindar, Zakar, Hakam, Usmaan, Sahid, Habba, Saukin, Taslim armed with sticks and rods came to the house of respondent No.2/Hayat and attacked his son Manish and Waris. When the complainant/respondent No.2 and his wife reached home, the assailants also attacked them. Dindar hit respondent No.2/Hayat on his head due to which he fell unconscious. The assailants also caused injuries to his wife Amina. On raising hue and cry, the assailants ran away. The injured were shifted to the hospital and due to severe injuries suffered by the complainant/respondent No.2-Hayat Khan and his wife, they were referred to Palwal and from there to Delhi. Accordingly, the FIR was registered.

3. A cross FIR No. 132 dated 04.04.2023 under Sections 148, 149, 323, 325, 341, 452, 506 IPC (307 IPC added later on) was also registered by petitioner-Rabia, wife of Dindar against the private respondents.

4. During course of trial, an application was moved by petitioner Rabia for directing the concerned IO/SHO PS, Hathin for taking



re-medical/re-opinion in respect to the injuries suffered by the injured namely Hayat Khan and Amina from the Board of Doctors, Government Hospital, Palwal and vide order dated 04.01.2024 the same was dismissed by learned Sub Divisional Judicial Magistrate, Hathin. Aggrieved petitioner filed a revision petition before learned Additional Sessions Judge, Palwal and vide impugned order dated 24.09.2024 the same was also dismissed. Hence, the present petition.

5. Arguments heard.

6. It is *inter alia* contended by learned counsel for the petitioner that present FIR No. 128 dated 01.04.2023 was registered under Sections 148, 149, 323, 452, 506 IPC (307 and 325 IPC added later on) against the petitioner and her husband, whereas they had not caused any injury to the private respondents rather they have received injuries at the hands of the private respondents. He contends that the private respondents, in connivance with the police officials, got registered the above said FIR. He also contends that private respondents in connivance with the police and doctors of Civil Hospital got the opinion qua the injuries sustained by them as dangerous to life and grievous in nature, which were allegedly attributed to the petitioner and her husband and on the basis of the said opinion, the police had added the offence under Sections 307 and 325 IPC in the present case. Learned counsel contends that the injuries sustained by the private respondents are self inflicted and a wrong opinion has been obtained by the private respondents. He submits that the learned trial Court as well as the Revisional Court had passed the impugned orders in a mechanical manner, which suffers from patent illegality, as such prays for setting aside the orders



passed by the Courts below.

7. Learned State counsel contends that the learned trial Court as well as the Revisional Court has rightly dismissed the application preferred by the petitioner being devoid of any merit. She contends that the application was preferred by the petitioner with sole motive of delaying the proceedings. Thus, prays for dismissal of the petition.

8. Considering the respective submissions and perusing the record, it transpires that the alleged incident took place on 29.03.2023, wherein the complainant party allegedly received injuries at the hands of accused persons. After discharge, the Investigating Officer of the case moved an application to the doctor, who had prepared the MLR of the injured person, to give his opinion regarding the injuries sustained by the injured. The doctor concerned gave his opinion on the same day declaring the injury sustained by respondent No.2 as dangerous to life, whereas the injuries suffered by respondent No.3 to be grievous in nature, according to which offences under Section 307 and 325 IPC were added. Thereafter, the petitioner moved an application to the Superintendent of Police, Nuh on 23.06.2023 for constituting the Board of Doctors seeking an opinion regarding the injuries sustained by the injured. Accordingly, on 28.07.2023 respondent No.2 was examined by the Board of Doctors and the Board also gave the opinion that the injury suffered by respondent No.2 was dangerous to life and it could not be self inflicted. These facts have been duly observed by the learned trial Court as well as Revisional Court while dismissing the application of the petitioner. The observations of the learned Revisional Court while dismissing the revision petition are as under:-

“xxxx. This Court is of the view that Board of Doctors have already examined the injured with regard to his injuries and they have confirmed the opinion give by treating doctor. Once the opinion of the Board of Doctors is already available on the court file, this Court does not deem it appropriate to order re-examination of injured Hayat Khan for the purpose of re-medical opinion by Board of Doctors. The learned Trial Court has rightly observed in its order dated 04.01.2024 that Board of Doctors has also given opinion regarding injuries and no material irregularities has been pointed out by the applicant on the part of the Investigating Officer of Board of Doctors. The application was dismissed after taking into account all the relevant facts and the opinion given by the treating doctor as well as Board of Doctors.”

9. Thus, the perusal of record would reveal that the learned Courts while dealing with the instant application have meticulously considered the facts and circumstances correctly in accordance with law. No perversity in the impugned order could be pointed out by learned counsel for the petitioner which could make out any ground for interference in the impugned order.

10. In view of the above, this Court does not find any infirmity or illegality in the impugned orders passed by the learned trial Court as well as Revisional Court which are found to be well reasoned and do not call for any interference by this Court.

11. As a consequent, finding no merit in the instant petition, the same is hereby dismissed.

12. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

18.11.2024

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |