

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22265-2025 (O&M)

Date of Decision: 01.05.2025

Parmanand @ Parma @ Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Abhinav Sood, Advocate for the petitioners

Sandeep Moudgil, J. (Oral)

(1). The petitioners have preferred instant petition under Section 528 of BNSS, 2023 challenging impugned order dated 27.10.2023 passed by learned Judicial Magistrate, Hodal whereby application filed by them for re-medical examination of the injured Udham Singh son of Rajender Singh in FIR No.208 dated 02.08.2023 under Sections 323,34,506 IPC and Section 25 of the Arms Act, 1959 (Sections 325,307 IPC were added later on) registered at P.S Mundkati, District Palwal has been dismissed; with a further prayer for setting aside order dated 01.02.2024 passed by learned Addl. Sessions Judge, Palwal vide which the revision petition filed by the petitioner has been dismissed.

(2). Instant petition has been filed on 29.03.2025 i.e. with inordinate delay of more than one year from the date of passing of the order. The nature of prayer made in the present petition for re-medical examination of the injured by Board of Doctors would have lost its very purpose inasmuch as prosecution evidence has commenced.

(3). State counsel seeks dismissal of the petition urging that such tactics have been adopted only in order to delay the trial inasmuch as the

prayer is totally unfounded and has lost its hold by the passage of time and even if the application is allowed, the purpose of medical re-examination injured Udham Singh the same would turn into a futile exercise.

(4). Having gone through the order dated 27.10.2023, it stands noticed that board of doctors was constituted by the CMO, Palwal and a direction was issued for re-examination of the injured Udham Singh at PGI, Rohtak but the said order has not been complied with by the respondent Authorities. Thereafter, the revision filed against the said order has been dismissed by the learned Addl. Sessions Judge vide order dated 01.02.2024, dismissing the plea of the petitioner.

(5). From the factual conspectus, it is evident that the plea raised by learned State counsel that it is only dilatory tactics to delay the trial proceedings would not sustain in the light of admitted fact that only one witness has been examined by the prosecution out of total 25 PWs. Therefore, question of delaying the trial by the petitioner does not hold good.

(6). Otherwise also, once the trial Court directed the Board of Dictors to re-examine the injured Udham Singh qua the injuries suffered, it would be clinching part for just and fair trial which is a vested right of the petitioner as enshrined under Article 21 of the Constitution of India. Further re-examination is done only if there are doubts about the initial conclusion that there are contradictions in the conclusion of several experts. This type of examination allows to adjust the evidence-based using special knowledge, which in some processes can play a decisive role.

(7). In the light of the above discussion and the facts that re-examination of an injured would help in establishing the severity of injuries

and overall impact on patient’s life, all of which are vital in determining the appropriate course of legal action and potential damage therefore, the instant petition deserves to be accepted.

(8). Accordingly, this petition is allowed and the impugned order dated 27.10.2023 passed by learned Judicial Magistrate, Hodal as well as the order dated 01.02.2024 passed by learned Addl. Sessions Judge, Palwal are hereby set aside.

(9). Ordered accordingly.

01.05.2025
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No