



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

CRM-M No.47086 of 2017 (O&M)

Reserved on:04.02.2026

Pronounced on: 09.03.2026.

Mahender Singh

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present : Mr. Raman Chawla, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

Mr. Sushil Shoeran, Advocate
for the respondents No.2 to 6.

SURYA PARTAP SINGH, J. (Oral):

By virtue of order dated 04.02.2015, a complaint alleging the commission of offence punishable under Sections 147, 148, 149, 323, 395, 452, 506 and 34 IPC has been dismissed by the learned Judicial Magistrate Ist Class Siwani, hereinafter being referred to as 'trial Court' only. Aggrieved of the above mentioned order, revision petition had been preferred by the petitioner but the same has been dismissed by the learned Additional Sessions Judge Bhiwani by virtue of order dated 12.09.2017. Aggrieved of both the above mentioned orders the present petition has been filed.

2. It has been contended by learned counsel for the petitioner that on 30.09.2012 an incident had taken place with the petitioner's wife, wherein the respondents No.2 to 6, thrashed petitioner's wife. As per petitioner, when he



came to know about the above mentioned incident and rushed to the spot he, too, came under assault and suffered injuries. According to learned counsel for the petitioner, in addition to above, his money was also taken away forcibly by the said assailants i.e. respondents No.2 to 6.

3. As per learned counsel for the petitioner with regard to above mentioned incident the medico-legal examination of the wife of petitioner had taken place and the matter was reported to the police but the police instead of taking action for the commission of offence of causing injury on the person of complainant's wife, took action under Sections 107/151 Cr.P.C. only, and therefore, the petitioner had to file a complaint in the Court of learned Judicial Magistrate. According to learned counsel for the petitioner in the Court of learned Judicial Magistrate the petitioner examined himself as well as his wife, along with one independent witness, and in support of their oral testimony the medico-legal report was also proved on record, but the learned trial Court on the basis of a report submitted by the police under Section 202 Cr.P.C. refused to take cognizance on the complaint of petitioner against the respondent No.2 to 6 and dismissed the same. It has been further contended by learned counsel for the petitioner that even the revision petition preferred against the above mentioned order dated 04.02.2015 did not find favour in the Court of Sessions and the same has been dismissed by the learned Additional Sessions Judge Bhiwani, vide order dated 12.09.2017.

4. According to learned counsel for the petitioner both the above mentioned orders are not sustainable being outcome of wrong appreciation of facts as well as law. It has been further contended by learned counsel for the



petitioner that the learned trial Court vis-a-vis learned Revisional Court have committed an error of judgment when it failed to appreciate the fact that there were consistent oral testimonies of three witnesses, coupled with the medical evidence and the above mentioned oral and documentary evidence was thoroughly consistent. According to learned counsel for the petitioner, in addition to above, the standard for appreciation of evidence applied by the learned trial Court vis-a-vis learned Revisional Court are wrong as at the time of taking cognizance only a prima facie case showing the involvement of accused in the commission of crime is to be proved.

5. As argued by learned counsel for the petitioner, the learned trial Court vis-a-vis learned Revisional Court have appreciated the preliminary evidence adduced by the petitioner with a standard as if the petitioner was supposed to prove its case beyond the shadow of all reasonable doubts. While alleging that for the purpose of taking cognizance ample evidence was available and the learned trial Court should have taken cognizance against the respondents No.2 to 6, the learned counsel for the petitioner has urged for accepting the instant petition. It has been requested by learned counsel for the petitioner that a direction be given to the learned trial Court to take cognizance against the respondents No.2 to 6, and proceed with the trial.

6. The record has been perused carefully.

7. A perusal of record shows that the complaint was filed by the petitioner with the following averments:-

that on 30.09.2012 at about 2.00 P.M. when the petitioner was present at his home and his wife was working in



their plot his 10 year old son namely 'Badal' came rushing to the home and told the petitioner that his wife 'Suman' was assaulted by the neighbour, and that they were beating her. According to complainant in response to above mentioned information he rushed to the spot where he found that respondents No.2 to 6 were beating his wife 'Suman' and when he tried to rescue her he (petitioner), too, came under attack. It was further alleged by the petitioner that in the above mentioned incident a sum of Rs.2,000/- was snatched from his pocket, and that he (petitioner) and his wife were rescued by 'Gopi' son of 'Ram Kumar' from the clutches of assailants.

8. Once the above mentioned complaint was filed the petitioner examined himself as CW-1, his wife Suman as CW-2, and Gopi as CW-3. The petitioner also placed on record the medico-legal report showing injury on his own person as well as on the person of his wife.

9. The above mentioned preliminary evidence was duly appreciated by the learned trial Court but while relying upon the report submitted by the police under Section 202 Cr.P.C., the learned trial Court observed that there was no prima facie case for summoning of respondents No.2 to 6 as accused. The above mentioned orders of learned trial Court dated 04.02.2015 has been maintained by the learned Court of Sessions while dealing with the revision petition.

10. With regard to above mentioned facts and circumstances of the present case, at the very outset, it is pertinent to mention here that at the stage,



when the complaint was fixed for taking cognizance against the accused, i.e. respondents No.2 to 6, only the preliminary evidence and the report submitted by the police under Section 202 Cr.P.C. was supposed to be appreciated by the trial Court. However, the learned trial Court while appreciating the above mentioned evidence ignored the fact that the testimonies of CW-1 to CW-3 were thoroughly consistent with regard to the fact that an attack was launched by the respondents No.2 to 6 upon the wife of petitioner and later on when petitioner arrived on the spot he, too, came under attack. The above mentioned testimony of above named two injured were further supported and corroborated by an independent witness, i.e. CW-3, and the oral testimonies of CW-1 to CW-3 were corroborated by the medical evidence.

11. The above mentioned evidence by any standard of law was sufficient and good enough to take cognizance against the respondents No.2 to 6, to face trial for the commission of offence punishable under Sections 147, 148, 149, 323, 452, 506 and 34 of IPC. However, the learned trial Court vis-a-vis Revisional Court seems to have been swayed by the report submitted by police under Section 202 Cr.P.C. If the above mentioned report is appreciated the above mentioned report itself indicates that an incident had taken place on 30.09.2012 between the petitioner and his wife on one side, and the respondents No.2 to 6 on the other side. Once the incident dated 30.09.2012 was an admitted fact, the only fact to be determined by the learned trial Court for the purpose of taking cognizance against the respondents No.2 to 6 was as to whether there was any injury on the person of petitioner and his wife or not. Since the above mentioned injuries were duly supported by medical evidence



and the testimony of an independent witness, i.e. CW-3, there was no occasion for the learned trial Court to disbelieve the above mentioned evidence for the purpose of taking cognizance.

12. The approach adopted by the learned trial Court vis-a-vis learned Revisional Court makes it apparent that the standard used for appreciation of evidence by both the above mentioned Courts was much higher than the required standard fixed for appreciation of preliminary evidence. At the abovesaid stage, once it was apparent that the police, too, had taken action with regard to incident dated 30.09.2022, the only and only option available with the learned trial Court was to examine the consistency of the testimonies of CW-1 to CW-3 coupled with the medical evidence and if the above mentioned testimonies were reliable enough, the cognizance should have been taken against the respondents No.2 to 6. However, merely on the basis of presumptions and assumptions as well as conjectures and surmises the consistent testimonies of CW-1 to CW-3 have been disbelieved by the learned trial Court and even the medical evidence has been ignored, merely on the ground that there was a delay in medical examination. While recording the above mentioned observation the learned trial Court have failed to appreciate that an explanation with regard to delay in medico-legal examination was given by the complainant, and otherwise also unless the credibility of above mentioned evidence would have been impeached by the accused, either by way of cross-examination or by way of defence evidence, the learned trial Court had no occasion to disbelieve the consistent testimonies of CW-1 to CW-3, duly supported by medical evidence.



13. As a sequel to above mentioned observations I find merit in the present petition. Hence the same is hereby allowed and the order dated 04.02.2015 passed by the learned trial Court and the order dated 12.09.2017 passed by the learned Revisional Court are hereby quashed. The case is referred back to the learned trial Court with a direction to re-appreciate the evidence in the light of observations regarded in the foregoing paragraphs, and pass a fresh order accordingly.

Pending miscellaneous application(s), if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

09.03.2026
Manoj Bhutani

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