

CRM-M-43333-2022 (O & M)

2026:PHHC:077237



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(129)

CRM-M-43333-2022 (O & M)

Reserved on : 14.05.2026

Date of Pronouncement:18.05.2026

Date of Uploading:18.05.2026

Surender Kumar

..... Petitioner

V/s

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jasmer Singh Rozera, Advocate,
for the petitioner.

Mr. T.P. Singh, Sr. DAG, Haryana.

Mr. Parambir Singh, Advocate,
for respondents No.2 to 5.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 25.03.2022 (Annexure P-4) passed by the Judicial Magistrate Ist Class, Karnal in FIR No.353 dated 31.08.2014 under Sections 147, 148, 323, 506 IPC registered at Police Station Nissing District Karnal whereby the application under Section 209 Cr.P.C. has been dismissed and the order dated 05.08.2022 (Annexure P-6) whereby the revision petition has been dismissed.

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2. The brief facts of the case are that the FIR No.353 dated 31.08.2014 under Sections 147, 148, 323, 506 IPC registered at Police Station Nissing District Karnal was registered on the statement of Surender Kumar. The injured Surender Kumar, injured-Ramesh Kumar and injured-Roshan Lal received multiple injuries on their person during the occurrence. Ramesh Kumar received 06 injuries on his person including 04 injuries on the head. He was admitted to Shree Hari Hospital, Karnal where Dr. Rohit Kumar, Neuro Surgeon from Shree Hari Hospital, Karnal opined that the injury on the person of Ramesh was dangerous to life. Thereafter, the police added Section 307 IPC. However, the accused-respondents (hereinafter known as 'the respondents;) moved an application before the Superintendent of Police, Karnal for obtaining an opinion regarding the injuries on the person of Ramesh Kumar. A Board of Doctors was constituted comprising Dr. Kamal Beniwal (M.O.), Dr. Vinod Kumar (SMO) and Dr. Gulshan Garg (Assistant Professor Surgical Department) of KCGMC Hospital, Karnal. After examining the injured and going through his medical record, the Board opined that, though, he (Ramesh Kumar) had suffered a Parietal bone fracture, he was treated conservatively without surgical intervention and therefore, in their opinion, the injury suffered by him was grievous in nature and not dangerous to life. Based on the said opinion, Section 307 IPC was deleted and the final report was submitted under Sections 148/149/323/325/506 IPC.

The opinion of the Board of Doctors is as under:-

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“Board opinion

After examination of patient's record, it is found that he had n/o assault. He was admitted on 31.08.2014 for his treatment @ Sri Hari Hospital and was discharged on 13.09.2014. During the period of his stay in the hospital, his wound was outured. He had R+ sided parietal bone fracture C underlying haemorrhagic contusion. He was treated conservatively as per his treatment record and no operation/surgical intervention was done.

Hence, in our opinion, his injury is declared as grievous in nature and not dangerous to life.

Sd/-
Dr. Kamal Beniwal
(M.O.)

Sd/-
Dr. Vinod Kumar
(S.M.O.)

Sd/-
Dr. Gulshan Garg
(Assistant Professor Surgical Department)

L.T.I.
(Ramesh)

3. Pursuant to the framing of the charges, Dr. Rohit Kumar, the treating doctor of Shree Hari Hospital, Karnal was examined as PW-5 and he reiterated his opinion of the injuries suffered by Ramesh Kumar to be dangerous to life. Likewise, the statements of PW-8/Dr. Vinod Kumar (SMO) and PW-11/Dr. Kamal Beniwal (MO), both doctors who were part of the Board who had examined the injured Ramesh Kumar, during the course

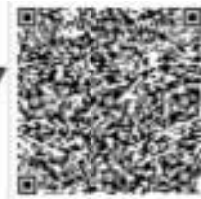


of their deposition stated that the injuries suffered by Ramesh Kumar were not dangerous to life but grievous in nature.

4. After the prosecution evidence was recorded, the petitioner-complainant (hereinafter known as 'the petitioner') moved an application under Section 209 Cr.P.C. praying that the evidence suggested that the offence was *prima facie* one under Section 307 IPC and therefore, the case be committed to the Court of Sessions for Trial.

5. The Judicial Magistrate Ist Class, Karnal vide order dated 25.03.2022 (Annexure P-4) dismissed the application of the petitioner. The relevant extract of the said order is as under:-

6. After hearing the arguments and perusing the case file, the Court is of the finding that the present application has been filed by the complainant for committal of present case to the Court of Sessions because from the records of the case, an offence under Section 307 IPC is made out. As per the application the injuries which were suffered by injured Ramesh were dangerous to life which makes out a case under Section 307 IPC. The complainant in order to support his application has relied upon the opinion given by Dr. Rohit Kumar, Neuro Surgeon, Shree Hari Hospital, Karnal. The witness opined that the injury suffered on injured Ramesh is dangerous to life. However, as is revealed from the records of the case, initially Section 307 IPC was invoked in the present case but the accused moved an application for re-examination of injured Ramesh and thereafter the re-examination of injured was conducted by a Medical Board which unanimously came to the conclusion that the injuries which were suffered by injured



Ramesh are though grievous and not dangerous to life. There is admittedly no challenge to this opinion of the medical board and also no objection was raised to this opinion given by the medical board by the complainant. The doctors who were part of the medical board have been examined as PW8 & PW11 who unanimously stated in their evidence that the injuries which were found on the body of injured Ramesh were grievous in nature and not dangerous to life. The medical board gave its opinion on the basis of the fact that the injured was discharged within 13 days of admission and his wound was sutured. The prosecution also examined the doctor who conducted the MLR as PW6 who stated in his evidence that all the injuries on the body of the injured were blunt in nature so there was no question of any sharp edged weapon like Gandasi being used in committing the offence. In these circumstances, the opinion of medical board would certainly have a greater value then the opinion of the private doctor. The opinion of private doctor is generally not that reliable as compared to opinion of board because the private doctors are likely to support the person who has sought opinion from them.

7. As regards to the objection of the Ld. Counsel for the Complainant that the medical board did not examine injured Ramesh so their opinion cannot be considered does not find favour with the court because it has been specifically mentioned by the doctors who were part of medical board in their examination before the court that the injured was examined by them. Further the medical opinion Ex. PW8/A contains the thumb-impression of the injured Ramesh which has not been disputed.

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9. The Id. Counsel for the complainant has argued that there are Injuries on the vital part of injures Ramesh so it makes out an offence under Section 307 IPC. However the court is not convinced with this argument because if the argument of Id. Counsel for complainant is believed then in all cases in which there is injury on the vital part of body the same would constitute an offence under Section 307 IPC which would be against the principle of law. Hence, in view of the above discussion, the Court does not find any merit in the present application and the same is hereby dismissed.

6. The petitioner filed a revision petition before the Court of Additional and Sessions Judge, Karnal challenging the aforementioned order which was also dismissed vide judgment dated 05.08.2022 (Annexure P-6). The relevant extract of the same is as under:-

8. The revisionist had moved an application under section 209 Cr.P.C. before learned lower court for committing of the case on the ground that offence under section 307 IPC is made out. However, as admittedly, the application in hand has been moved before the learned trial court court after commencement of enquiry/trial before the trial court, the application should have been moved under section 323 Cr.P.C. instead of section 209 Cr.P.C. In the application under section 209 Cr.P.C. moved before learned trial court by the revisionist, in second paragraph, there is reference of treatment being provided to injured Ramesh firstly at PHC, Nissing and thereafter admission of injured at Shri Hari Hospital, Karnal where he had remained under treatment of Dr.Rohit Goyal. As thereafter in the application in hand, the revisionist has mentioned that



after seeking opinion of Board of Doctors, offence under section 307 of IPC had been deleted from FIR, it is therefore clear that from the very beginning, the revisionist had the opportunity to either raise objection against the opinion of Board of Directors regarding nature of injuries suffered by injured Ramesh or to move appropriate application in this regard. However, admittedly, nothing in this regard had been done by the revisionist.

9. In para No.4 of the application, it has been mentioned that earlier the complainant did not move any application for altering the charge under section 307 Cr.P.C. as the offence under section 307 of IPC would be made out of only after recording the complete evidence of prosecution. However, the aforesaid explanation furnished by the revisionist for delay in moving the application is without merit as it is settled law that charge is framed against the accused, if a prima-facie case regarding commission of offence is made out against him. Further, admittedly, prior to framing of charge, the opinion of PW5 Dr.Rohit Goyal, Neuro Surgeon regarding the nature of injury on the person of injured Ramesh being dangerous to life, CT scan and case summary etc. were already available. Learned counsel for revisionist has though argued that the report of Medical Board regarding the injuries suffered by injured Ramesh only being grievous and not dangerous to life can override the opinion of Dr.Rohit Goyal, Neuro Surgeon, since there was no Neuro Surgeon in the Medical Board, however, the objections in this regard was to be taken up at the first instance by the revisionist when on the basis of opinion of Board of Doctors, the offence under section 307 of IPC was removed from FIR and then at the stage of framing of charge but admittedly, it has not been done. It has been though also argued



by the learned counsel for revisionist that injured Ramesh was not examined by the Board but in the testimony of PW8, it has come in cross-examination that they had examined the patient/injured Ramesh and also his thumb impression had been taken on the opinion. In his examination in chief, PW8 has also explained that as the patient had been treated conservatively as per treatment record and no operation/surgical intervention was done, hence, the Board had declared the injuries to be serious in nature and not dangerous to life.

10. In para No.6 of the impugned order, the learned trial court has also rightly observed that the opinion of the Medical Board would certainly carry more value than the opinion of the private doctor as private doctor is likely to support the person who had sought his opinion. So far as the submissions of learned counsel for revisionist that as the injuries to injured Ramesh has been caused on the vital part of body, the offence under section 307 of IPC is attracted but there is no merit in the said submission also as firstly in the complaint, the revisionist Surender Kumar has nowhere alleged that they had been attacked by the accused persons with an intention to kill them and secondly in cross-examination of PW6, Dr.Nipun Kalra, Medical officer, it has also come that respondents Sumit and Bhag Singh had also received multiple injuries in the occurrence on various parts of their bodies including head injuries. So far as the authorities relied upon by learned counsel for revisionist are concerned, they are not applicable as in both the authorities, matter has been decided on merits.

11. For the reasons recorded above, this court is of the view that after properly appreciating the facts of the case, learned trial court has rightly dismissed the application under section 209 Cr.P.C. filed by the revisionist/complainant for commitment



of the case to the court of Sessions. As there is no merit in the revision petition, the same is hereby dismissed. Lower Court file be sent back along with copy of this judgment and the revision petition file be consigned to the record room.

7. Thereafter, the instant petition has been filed challenging the aforementioned order (Annexure P-4) and the judgment (Annexure P-6).

8. The learned counsel for the petitioner contends that the impugned order dated 25.03.2022 (Annexure P-4) and the impugned judgment dated 05.08.2022 (Annexure P-6) have been passed on the basis of conjectures and surmises without appreciation of the material on record. PW-5/Dr. Rohit Kumar, the treating doctor from Shree Hari Hospital, Karnal has clearly opined that the injury on the person of Ramesh Kumar was dangerous to life as he remained unconscious for more than 12 days on account of a skull fracture. The doctors who constituted the Board, namely, PW-8/Dr. Vinod Kumar (S.M.O.) and PW-11/Dr. Kamal Beniwal (M.O.) were not the treating doctors and had not examined Ramesh Kumar and therefore, their opinion that the injury suffered by Ramesh Kumar was grievous in nature and not dangerous to life cannot be accepted. He contends that Ramesh Kumar had suffered mental illness with moderate permanent disability of 75% which also establishes that the injury suffered by him is dangerous to life. He further contends that, though, the application was filed under Section 209 Cr.P.C. it ought to have been filed under Section 323 Cr.P.C. and this technical defect cannot be a ground for rejection as the substance of the application should prevail over the form. He, thus,



contends that the impugned order dated 25.03.2022 (Annexure P-4) and the impugned judgment dated 05.08.2022 (Annexure P-6) be set aside and the case be committed for Trial to the Court of Sessions as *prima facie*, an offence under Section 307 IPC is made out.

9. The learned counsel for the State and respondents No.2 to 5, on the other hand, contend that the opinion of the treating doctor/PW-5 Dr. Rohit Kumar, Neuro Surgeon from Shree Hari Hospital, Karnal which is a private hospital was superseded by the opinion of a Board of Doctors of KCGMC, Karnal, as per which the injury *R+ sided parietal bone fracture C underlying haemorrhagic contusion* was grievous in nature. The subsequent opinion of Board of Doctors has remained unchallenged till date. They, therefore, contend that the present petition is liable to be dismissed.

10. I have heard the learned counsel for the parties.

11. Apparently, not only has the Board of Doctors duly examined the complainant but it has also gone through his medical record and it was only then that the opinion was given that the injury was grievous in nature as Ramesh Kumar was treated conservatively without any surgical intervention. The prosecution has also examined Dr. Nipun Kalra, (M.O.) as PW-6 who had conducted the medico legal examination of Ramesh Kumar and stated in his evidence that all the injuries on the body of the injured were caused by a blunt weapon and therefore, there was no question of sharp-edged weapon like *gandasi* being used in committing the offence. In fact, PW-5/Dr. Rohit Kumar who has given an opinion that the injury on Ramesh Kumar was

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dangerous to life, has admitted in his cross-examination that he had given his opinion based on the clinical history and the C.T. Scan film history but the weapon of offence was never shown to him. As regards permanent disability suffered by Ramesh Kumar and the same leading to the assumption that the injury on his person was dangerous to life, it would be pertinent to refer to Section 320 IPC *fifthly*, as per which a grievous injury would include destruction or permanent impairing of the powers of any member or joint. Therefore, merely because an injury leads to some sort of disability would not *ipso facto* lead to the conclusion that the injury was dangerous to life. In fact, Section 326 IPC envisages imprisonment for life and in a case of some sort of permanent disability such a severe sentence can also be imposed.

12. Keeping in view the aforementioned discussion, I find no merit in the present petition and the same stands dismissed.

13. The pending application(s), if any, shall stand disposed of accordingly.

May 18, 2026
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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