
(2012) 03 P&H CK 0132
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-3240 of 2010

Naresh Kumar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 319, 397(3), 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 324, 325

Citation : (2012) 03 P&H CK 0132

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mehinder Singh Sullar, J.—The compendium of the facts, culminating in the commencement, relevant for the limited purpose of deciding the core controversy, involved in the instant petition and oozing out, from the record, is that on the basis of statement of complainant Jai Bhagwan injured (for brevity "the complainant"), a criminal case was registered against accused Som Nath, Satpal sons of Ram Nath, Rajesh son of Som Nath, Sanjeev Kumar & Munish Kumar sons of Satpal and Naresh son of Jagat Ram (petitioner), vide FIR No. 104 dated 6.6.2004, on accusation of having committed the offences punishable under Sections 148, 323, 324& 325 read with Section 149 IPC, by the police of Police Station Kurukshetra University, Kurukshetra.

2. Although there are direct allegations contained in the FIR that the present petitioner-accused gave fist blow on the mouth of the complainant, due to which, his one tooth was broken, but still, the police declared innocent and did not challan him. However, police submitted the final police report, in terms of Section 173 Cr.P.C. against the remaining accused.

3. During the course of trial, the complainant appeared as PW3 and categorically stated that the petitioner inflicted fist blow on his mouth, on account of which, his one tooth was broken. The ocular version of PW3 finds further corroboration

from the statement of PW1 Dr. Surender Mehta. Thereafter, in the wake of application filed by the prosecution u/s 319 Cr.P.C. the petitioner was ordered to be summoned to face trial by the Magistrate for the commission of indicated offences alongwith his other co-accused, by way of impugned summoning order dated 23.5.2009 (Annexure P1).

4. Sequelly, the revision petition filed by the petitioner was dismissed as well, by the revisional Court, by virtue of impugned order dated 11.1.2010 (Annexure P2).

5. The petitioner still did not feel satisfied and preferred the instant petition, to quash the impugned orders (Annexures P1 & P2), invoking the provisions of Section 482 Cr.P.C..

6. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, there is no merit in the present petition in this context.

7. Ex facie, the argument of learned counsel that since the petitioner has been falsely implicated, so, the impugned orders deserve to be set aside, is not only devoid of merit but misplaced as well.

8. As is evident from the record, that the direct and serious allegations are attributed to the petitioner that he broken one tooth of the complainant. The complainant appeared as PW3 in the witness box and corroborated his version contained in the FIR on all vital counts. Moreover, his deposition finds further corroboration from the medical evidence of PW1 Dr. Surender Mehta. Thus, to me, as there is sufficient material on record, therefore, the trial Court has rightly summoned the petitioner to face the trial for committing the aforesaid offences alongwith his other co-accused u/s 319 Cr.P.C. Not only that, the revisional Court has also considered the matter and correctly negated the claim of petitioner.

9. Meaning thereby, both the Courts below have examined the matter in the right perspective and correctly recorded the cogent grounds in this relevant connection. Such impugned orders, containing valid reasons, cannot possibly be interfered with by this Court, in the present 2nd revision petition, in the garb of petition u/s 482 Cr.P.C. (which is otherwise barred u/s 397(3)Cr.P.C.), unless and until, the same are illegal, perverse and without jurisdiction. Since no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner-accused, so, the impugned orders (Annexures P1 & P2) deserve to be maintained in the obtaining circumstances of the case.

10. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

11. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of the main case, as there is no merit, therefore, the instant petition is hereby dismissed as such.

12. Needless to mention that nothing observed, here-in-above, would reflect, in any manner, on merits during the trial of the main case, as the same has been so recorded for a limited purpose of deciding the present petition in this relevant direction.