

(2018) 11 SHI CK 0025

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition No. 262 Of 2016

Shankar Dass

APPELLANT

Vs

State of Himachal Pradesh and others

RESPONDENT

Date of Decision : 27-11-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 325, 326, 341, 504, 506
Code of Criminal Procedure, 1973 — Section 173, 482
Himachal Pradesh Panchayati Raj Act, 1994 — Section 32

Citation : (2019) CriLJ 1333

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sushant Veer Singh Thakur, Parshotam Chaudhary, Dinesh Thakur, Sanjeev Sood, Amit Kumar, Suresh Kumar, Leena Guleria

Final Decision : Dismissed

Judgement

Sandeep Sharma

1. By way of instant petition filed under S.482 CrPC, petitioner has sought direction to respondent No. 2 i.e. Superintendent of Police, Hamirpur, for

registering a case against respondents No. 6 and 7, under Ss. 307, 326, 341, 504, 506 and 34 IPC. Petitioner has also prayed that summons dated

1.8.2016 issued by respondent No.5-Gram Panchayat Putdiyal, Tehsil Nadaun be cancelled/stayed and consequential proceedings arising out of FIR

No. 59 dated 25.6.2016 may also be stayed.

2. In nutshell, case of the petitioner, as emerges from the record is that on 25.6.2016, he was given merciless beatings by respondents No. 6 and 7, as

a consequence of which, he suffered simple as well as grievous injuries. Petitioner has alleged that respondents No. 6 and 7, who allegedly gave him

beatings, have been protected by the Police as well as Medical Officer, who medically examined him. Petitioner has alleged that he suffered grievous

injuries on his head, as a consequence of which he received eight stitches on his forehead, but the Medical Officer, while issuing MLC only stated that

the petitioner suffered simple injuries on account of alleged beatings given by accused. Petitioner further alleged that the report of Medical Officer,

Government Hospital, Hamirpur has been issued under the influence of the accused as well as Station House Officer. At the time of lodging of FIR,

case under Ss.341, 323, 504, 506 and 34 IPC was registered against respondents No. 6 and 7, but while presenting Challan under S.173 CrPC, in the

competent Court of law, Investigating Officer purposely and knowing fully well, placed wrong facts before the court below and has wrongly stated

that case under Ss. 341, 323 and 504 IPC is made out against respondents No. 6 and 7 and same falls within the cognizance of the Gram Panchayat.

In the aforesaid background, petitioner has approached this court in the instant proceedings, seeking therein direction to stay the proceedings pending

before the Gram Panchayat concerned.

3. Having heard the learned counsel representing the parties and perused the reply having been filed on behalf of respondents No.1 to 3, this court

finds that the FIR was lodged on the basis of statement of petitioner Shankar Dass, under Ss. 341, 323, 504, 506 and 34 IPC, but for the purpose of

inserting other Sections i.e. 325 and 307 IPC, Investigating Officer sought opinion of Medical Officer, who had medically examined the

injured/petitioner. Investigating Officer moved an application dated 25.6.2016 (Annexure R-1) to the Medical Officer, requesting therein to give his

opinion with regard to injuries allegedly suffered by petitioner on account of beatings given by respondents No. 6 and 7. Careful perusal of opinion of

the Medical Officer (Annexure R-2) clearly suggests that injuries suffered by petitioner were simple in nature and as such, there was no occasion for

the Investigating Officer to incorporate Ss. 325 and 307 IPC as argued by the learned counsel representing the petitioner. Medical Officer has

specifically opined that, "Injury No. (1), (2) and (3) are simple and not dangerous for life. (Page-69 of the paper-book)"

4. Similarly, this court finds that as per Schedule III provided in Himachal Pradesh Panchayati Raj Act, 1994, (Annexure R-3), offences under Ss. 341,

323 and 504 IPC, are triable by Gram Panchayat and as such, this court sees no illegality or infirmity in the action of Gram Panchayat in as much as

issuance of summons to respondents No. 6 and 7 is concerned, rather, S.32 of the Himachal Pradesh Panchayati Raj Act, 1994, makes it mandatory

that the offences, which exclusively falls within the cognizance of the Gram Panchayat, should be tried by the Panchayat only. S.32 of the Act ibid is

reproduced hereunder:

â??32. Offences cognizable by Gram Panchayat.-

(1) Offences mentioned in Schedule-III or declared by the State Government to be cognizable by a Gram Panchayat, if committed within the

jurisdiction of a Gram Panchayat, and abetment of and attempts to commit such offences shall be cognizable by such Gram Panchayat.

(2) Application for maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be heard and decided by the Gram

Panchayat. A Gram Panchayat may grant a maintenance allowance not exceeding five hundred rupees per month on such application without

prejudice to any other law for the time being in force in this behalfâ??

5. Similarly, careful perusal of statements of Shankar Dass and Kuldeep Singh, Annexures R-5 and R-6, respectively, suggests that the accused, while

leaving the spot had not threatened the petitioner with dire consequences to his life. Kuldeep Singh, who happened to be the eye witness, categorically

stated before the Investigating Officer that the accused persons have not threatened the petitioner with dire consequences and the petitioner (Shankar

Dass) himself, in his statement recorded on 26.6.2016, stated before the Investigating Officer that the accused persons did not threaten him with dire

consequences and as such, there appears to be no illegality or infirmity in the action of Investigating Officer in not incorporating the offences

punishable under Ss. 506 IPC, while presenting Challan under S.173 CrPC, in the competent Court of law. Though, there are vague allegations

levelled in the petition with regard to collusion of Investigating Officer and Medical Officer, who had issued the MLC, but there is no convincing

evidence/material placed on record to substantiate such allegations, as such, same can not be made basis to reject the report submitted under S.173

CrPC.

6. Consequently, in view of above, this court sees no reason to entertain the

present petition, which is dismissed being devoid of merit, alongwith pending applications, if any. Interim directions, if any, are vacated. Record, if any received, be sent back forthwith. Gram Panchayat concerned is directed to proceed with the proceedings.