

30.10.2009. Present: Mr.Karan Singh Kanwar, counsel for the petitioner.
Mr.Vishal Bindra, counswel for respondent No.1.
Mr.J.S. Guleria, Asstt.A.G., for respondent No.2.

Heard. In the present revision petition, the petitioner has challenged the order passed by the learned Sessions Judge, Sirmaur at Nahan, dated 18.11.2008, vide which he set aside the order passed by the learned Judicial Magistrate, Court No.II, Paonta Sahib, vide which the petitioner was not summoned under Section 307 of the IPC. On revision preferred against the said order of the learned Judicial Magistrate, the learned Sessions Judge passed the order that the petitioner be summoned under Section 307 of the IPC also, apart from Sections 323, 325 read with Section 34 of the IPC.

The petitioner has preferred the present revision petition on the ground that he could not have been summoned under Section 307 of the IPC on the basis of the challan submitted by the prosecution before the learned trial Court.

The question as to whether offence under Section 307 of the IPC was made out or not is to be decided by the learned trial Court at the time of framing of charge and in case the petitioner is aggrieved, he can come up in revision against the said order before this Court.

At this stage, the learned counsel for the petitioner does not press the present petition with liberty reserved to the petitioner to approach this Court after the framing of the charge by the court below.

In view of the above submission, the petition is dismissed as not pressed. However, liberty is reserved to the petitioner to approach this Court after the framing of the charge, if so advised. The petition stands disposed of accordingly. The record of the case be returned **forthwith**.

In view of the final disposal of the main petition, all the pending applications, if any, shall also stand disposed of.

October 30, 2009.
(TILAK)

(V.K. Ahuja),
Judge.