

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**CRA-AD-840-2019****Date of decision : 22.05.2023**

RANJIT KAUR @ RIMPY

-APPELLANT

VERSUS

BHUPINDER SINGH AND ORS.

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Ravi Sodhi, Advocate and
Mr. Umesh Pandey, Advocate
for the appellant.

Mr. P.P. Chahar, Sr. DAG, Haryana.

Ms. Shaveta Sanghi, Advocate and
Mr. Aditya Sanghi, Advocate
for the respondents No.1 and 2.

SURESHWAR THAKUR, J.

1. The learned Additional Sessions Judge, Sirsa, through a verdict drawn on 01.10.2019, upon CNR No.HRS101001081-2018, made a verdict of acquittal upon the accused. The verdict of acquittal (supra) has been assailed, before this Court, at the instance of the aggrieved therefrom complainant, appellant herein.

Factual background

2. The genesis of the prosecution case becomes embodied in the appeal FIR, to which Mark DX2 has been assigned. The narrations carried in Mark DX2 are, that the complainant Ranjit Kaur @ Rimpay was married to Gurpreet Singh son of Sukhdev Singh, in the year 2004 and from the said wedlock, a daughter namely Jashanpreet Kaur was born. However, her husband died on 16.6.2007 and after the death of her husband her parents-in-law, brother-in-law and sister-in-law

started maltreating her and after some days, they threw her out of the matrimonial home and thereafter, a Biradri Panchayat was convened and the complainant demanded her share from her husband's property but father-in-law and brother-in-law of the complainant denied to give the same to her. However, maintenance amount was ordered by the court to be paid by Sukhdev Singh to the complainant and due to this reason they were nurturing a grudge against the complainant. The complainant has been working as security guard at OHM Cine Garden. On 27.11.2012, at about 6.00 p.m, while she was coming back to her village Bhavdeen on her scooty, she was stopped by a white Maruti Car and accused alighted from the said car and gave a lalkara to teach a lesson to the complainant. The complainant tried to run away, but accused Sahab Singh caught her and gave a fist blow on her right eye, and, Bhupender Singh gave blow to her with an iron rod, and, Sahab Singh also pushed her, upon which the complainant fell unconscious. The complainant got treatment from Sangwan Hospital, Sirsa. After some days, when the complainant regained consciousness, accused convened a Biradari Panchayat and requested for compromise in the matter. On 9.12.2012, the complainant was discharged from the hospital. On 24.2.2013, a compromise was effected between the complainant and the accused, wherein it was decided that the accused persons would pay her Rs.40,000/- and would give two acres of land, as her share in the property of Sukhdev Singh. However, the accused persons did not comply with the terms of the compromise and upon this, the complainant got registered the instant appeal FIR.

3. As police did not take any action against the accused-persons, rather filed cancellation report, thus it led the complainant to file a complaint, to which Ex.P2 has been assigned. On the basis of this complaint and preliminary evidence(s), the ld. trial Magistrate concerned, vide order dated 16.07.2015,

summoned the accused persons under Sections 323, 341, 506 read with section 34 of IPC.

Investigation Proceedings

4. After registration of case, investigation was conducted by DSP and ASP, who visited the alleged place of incident. The place of occurrence was inspected by the investigating officer concerned. Mechanical examination of the scooty, as driven by the complainant, on the alleged day of incident, was also conducted. Further investigation was carried out. Statement of witnesses were recorded.

Committal Proceedings

5. Since the offence under Section 307 of IPC was exclusively triable by the court of Session, thus, the learned committal Court concerned, through a committal order made on 09.02.2018, hence proceeded to commit the accused to face trial before the court of Session.

Trial Proceedings

6. On finding a prima facie case, the learned trial Magistrate concerned, on 01.03.2018, chargesheeted the accused for offences punishable under Section(s) 307, 323, 341, 506 read with section 34 of the IPC. However, during the pendency of trial, accused Sukhdev Singh died and proceedings qua him were dropped vide order dated 09.02.2018.

7. The prosecution in support of its case examined as many as seven witnesses and placed reliance on documents exhibited as P1 to P6. Subsequently, the learned public prosecutor closed the prosecution evidence, and thereafter the learned Trial Judge drew proceedings under Section 313 Cr.P.C, wherein, the accused pleaded innocence and claimed false implication. In defence, the defence

counsel examined one defence witness, placed reliance on exhibits DX and DX2, and documents marked as DX1 to DX7, and, closed the defence evidence.

Submissions of the learned counsel for appellant

8. The learned counsel appearing for appellant has contended before this court, that the appreciation of evidence as made by learned trial judge concerned, is tainted with a vice of gross mis-appreciation, and non-appreciation of evidence, therefore, he has argued that the impugned verdict drawn on 01.10.2019, is required to be interfered with.

Submissions of the learned counsel for respondents

9. On the other hand, the learned counsel for the respondents, has vigorously contended before this Court, that the impugned verdict of acquittal, is well merited, as the same is based on a worthy appraisal of the evidence as became led thus to prove the charges. Therefore, the verdict dated 01.10.2019 is required to be affirmed and upheld.

For the reasons to be assigned hereinafter, this Court does not find any merit in the instant appeal, and, is constrained to dismiss it.

Delay in the lodging of the FIR not well explained.

10. The prime reason for dismissing the instant appeal is planked upon the factum of there being an inordinate delay in the reporting of the crime event to the police agency. It is but evident, on a reading of the records, that the crime event allegedly took place on 27.11.2012, but the said incident became reported on 31.01.2013, therefore, the reporting occurred, thus with a gap of almost two months occurring since the happening of the crime event thus at the crime spot. Though unless the said delay becomes well explicated, thus the said delay would be fatal to the prosecution case. The want of a valid explication to the relevant delay, would lead to an inference, that the genesis of the prosecution case as

carried in the FIR, becoming stained rather with entrenched vice(s) of concoction and premeditation, resultantly no credence being assignable to such a prevaricated and inventive narrative, as carried in the FIR. In discovering from the records, whether the said delay has been well explicated, it appears, that though the complainant had strived to well explicate the said inordinate delay. The explanation became rested on the ground,

(I) that during the entire prolonged duration, since the happening of the crime at the crime site, she was disabled from the gravity of the injuries, thus to make a prompt reporting of the incident to the police. Moreover, the further reason in explication of the said delay, is founded upon the factum,

(II) that a compromise, took place between the accused and the complainant on 24.2.2013, whereas, on the said compromise becoming reneged by the accused, thus then the reporting taking place, whereby a well explicated delay, rather arising, in the belated lodging of the FIR, in respect of the crime event.

11. While dealing with the above initial reason, assigned by the complainant, in hers failing to make a prompt reporting of the incident, to the police, it appears, that the said purported explanation, is but entirely pertextual, besides is false. The reason becomes comprised in the factum, that the complainant became discharged from the hospital, on 9.12.2012, and at that stage, she never made any reporting of the crime event to the police. Moreover, with the doctor concerned, upon stepping into the witness box as PW7, making a testification, that the complainant was conscious at the time of hers, being admitted in the hospital, besides with the said testification garnering support, from MLRs (Ex.P3 & Ex.P4). Therefore, when the complainant was conscious at the time of hers being admitted in hospital, yet hers failing to promptly report, the

crime event, to the police, thus makes the said explanation to be false and engineered and to which no credence can be assigned.

12. Even otherwise, since the complainant in her cross-examination admitted, that she regained full consciousness, 4 to 5 days elapsing since the crime event taking place, and thereafter, she never fell unconscious.

13. Moreover, when she also made a disclosure of the incident to her parents on the very day, when the crime event took place, thereby also yet hers making an elongated delay in reporting, the incident, and/or, her parents also failing to report the incident, in prompt sequel, to the complainant narrating the incident to them, but on the very same day, when it took place, but also is fatal to the prosecution.

14. Secondary reason (supra), as relates to a compromise being drawn against the accused and the complainant, and, which is carried in Mark A, and the same being drawn on 24.2.2013, but given there being breach of the term of compromise, at the instance of the accused, thereby leading the complainant to make a belated reporting of the incident to the police, but also is a flimsy, as well as an engineered reason, and, to which no credence can be assigned.

15. The reason for making the above conclusion arises from the factum, that though the compromise (Mark A) evidently occurred on 24.2.2013, but yet when no signatures of the accused persons occur thereon, therefore it cannot be said, that as a matter of fact, it was a bilaterally drawn compromise amongst the accused and the complainant. Therefore, there was no occasion for the accused, who were not signatories to the said compromise, to either abide by the terms, as carried therein, nor there was any further occasion for the complainant to say, that given the terms thereof becoming breached by the accused, thereby she became led to make a belated reporting of the incident to the police.

The appeal is dismissable as even on merits the charges are not cogently proven.

16. Moreover, from a reading of the evidence on record, it appears, that it was not an assault case, nor the injuries, if any, sustained on the person of the complainant were assault injuries, thus attributable to the accused, but rather were injuries gained in a roadside accident. The said conclusion becomes embedded upon ruqa (Mark DX7) as became sent by the doctor concerned. Thereins, it is candidly mentioned, that the relevant event was a roadside accident. Support to the said fact is also marshaled from Ex.P4 and Ex.P5, which are respectively, the progress chart and the operation notes. In addition, support thereto is also lent by the mechanical report (Mark DX3), as, appertain to the scooty driven at the relevant time by the complainant, and, which was taken into possession vide recovery memo (Ex.DX). In the mechanical report (supra), there is a clear speaking, that the scooty which was at the relevant time occupied, and, was driven by the complainant also suffered damage. Resultantly obviously when the said mechanical report has not been suggested to be false, engineered or contrived. Therefore, when it besides the above referred other unrebutted documentary evidence, suggests that rather the injuries suffered by the complainant, thus being not assault injuries rather purportedly inflicted on the complainant by the accused, but rather theirs being the sequel of a roadside mishap. In sequel, no incrimination can be assigned to the accused for such non assault injuries becoming suffered by the complainant.

17. Furthermore, for the reasons to be assigned hereinafter, there are rife open, and, material contradictions existing in the testification(s) of the complainant, who stepped into the witness box as PW1, from her previously made statement in writing (Ex.P1). The above said rife open inter-se contradictions inter-se her testification made in court, thus from her previously

made statement to the police, as enclosed in Ex.P1, thus relates to hers making a testification, that she omitted to mention in her statement (Ex.P1) about the presence of two purported eye witnesses, namely, Varyam Singh and Jiwan Singh, rather at the crime site. Therefore, the said improvement, as made by the complainant in her testification, over her previously made statement to the police, not only erodes the efficacy of her testification made in court, but also erodes the testifications, if any, made by the purported eye witnesses (supra), given theirs being for reason (supra), thus not being eye witnesses to the occurrence. Therefore, resultantly the testifications, if any, as became made by the said purported eye witnesses to the occurrence, and, which may support the charge drawn against the accused, thus also rather become vulnerable to the deepest suspicion, and/or, thereby no credence is to be assigned to their respectively made testification(s).

Final Order

18. For the reason assigned hereinabove, this Court does not find any merit in the instant appeal, and, is constrained to dismiss it. Consequently, the appeal is dismissed. The impugned verdict of acquittal, as made upon the accused, thus by the learned trial Judge concerned, is maintained and upheld.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

22.05.2023
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Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No