

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA No.S-2304-SB of 2014 (O&M)
Date of Decision: January 20, 2015

Kamlesh Devi

...Appellant

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Savita Rana, Advocate
for the appellant.

Mr.S.S.Chandumajra, Deputy Advocate General, Punjab
for the respondent-State.

Mr.Munish Mittal and Mr.Vijay Kumar, Advocates
for respondent No.2.

INDERJIT SINGH, J.

Appellant Kamlesh Devi has filed this appeal against State of Punjab and Paramjeet Singh @ Pammi @ Jagdev Singh respondents challenging the impugned judgment dated 22.02.2014 passed by learned Addl. Sessions Judge, Patiala vide which the judgment of conviction and order of sentence dated 19.08.2013 passed by learned Judicial Magistrate Ist Class, Patiala were set aside and accused-respondent No.2 was acquitted.

Notice of motion was issued and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the appeal.

Lower Court record was also summoned.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that FIR in the present case has been registered on the statement of complainant that her husband is a doctor by profession and running his shop near their house. On 05.07.2010 at about 8.00 P.M., her husband had gone to the village for giving medicine to patient, her father-in-law had gone to dairy for purchasing milk and her mother-in-law was in the bathroom and was taking water from the hand-pump. The main gate of the house was closed from inside. Paramjit Singh @ Pammi (respondent No.2) entered in her house by jumping over the outer wall and used criminal force against the complainant and outraged her modesty and complainant raised alarm. On hearing complainant's voice, her mother-in-law came from the bathroom and then her father-in-law also came to home. Then Paramjit Singh @ Pammi left the complainant and pushed her father-in-law and also threatened to kill complainant and ran away from the spot through the main gate. During this, her shirt was torn and T-shirt of Pammi was also lying there. The complainant told the above-said incident to her husband and family of her in-laws and due to hesitation and shame, they did not disclose the matter to anyone but Paramjit Singh @ Pammi did not stop himself from doing these illegal acts and tried to outrage her modesty.

Learned JMIC, Amritsar vide judgment of conviction and order of sentence dated 19.08.2013, convicted and sentenced present

respondent No.2 under Sections 451, 506 and 354 IPC. In the appeal, filed by accused-respondent No.2, learned Addl. Sessions Judge, Amritsar vide impugned judgment dated 22.02.2014 acquitted the accused.

From the record, I find that first of all, this incident is of 05.07.2010 and the matter was reported on 15.07.2010. There is unexplained delay of 10 days in recording the FIR. As per the FIR, the delay was only due to hesitation and shame as the honour of the family was at stake but PWs tried to explain the delay by raising the plea that initially they took up the matter in the panchayat and they did not want to report the matter to the police but no witness has been examined that the matter was reported to the Panchayat. Otherwise also, if the matter was reported to the Panchayat, then there was nothing to conceal this incident and it cannot be held that matter was not reported to save the prestige of the family because as per PWs, the matter was also brought to the notice of the neighbours.

Learned Addl. Sessions Judge, Amritsar considering this delay, non-examination of any panchayat member and non-examination of any person from the neighbourhood, found that a reasonable doubt exist in the prosecution case. Further, Addl. Sessions Judge, Amritsar appreciated the evidence that as to how the accused came to know that there is no other family member in the house. He also considered this fact that as per prosecution version, mother-in-law was in the bathroom and door was closed from inside. Then how, father-in-law came on the spot. The Court considered this

fact that complainant in her cross-examination has stated that after the incident they called the neighbours and narrated the occurrence to them but she could not tell the names of said neighbours though she stated that she knew the names of almost all the persons of her village. There is no reason or ground as to why the names of those neighbours have not been given by the complainant. Then two persons from the locality or neighbourhood have appeared as defence witness though these witnesses appear to be interested witnesses but the fact that no person from the neighbourhood was examined by the prosecution, creates doubt in the prosecution version. There is also nothing to show as to how the T-shirt of the accused had fallen when he had not removed his T-shirt.

Keeping in view the findings of learned Appellate Court, which are given on the facts and law, I find that the impugned judgment dated 22.02.2014 passed by learned Addl. Sessions Judge, Amritsar is correct and as per law and does not require any interference from this Court and the same is upheld.

Therefore, finding no merit in the appeal, the same is dismissed in limine.

January 20, 2015
Vgulati

(INDERJIT SINGH)
JUDGE