

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No.M-1728 of 2014 (O&M)
Date of Decision: January 15, 2015**

Smt. Anamika

.... Petitioner

vs.

Smt. Rita Rani and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.S. Dinarpur, Advocate for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Challenged in the present petition is the order dated 27.10.2010 (Annexure P-2) passed by learned Chief Judicial Magistrate, Kurukshetra, vide which the complaint filed by the present petitioner was dismissed and the accused were discharged. Also challenged is the order dated 16.12.2013 (Annexure P-3) passed by learned Addl. Sessions Judge, Kurukshetra, vide which the revision filed by the petitioner against the order of learned Chief Judicial Magistrate, Kurukshetra was dismissed.

Suffice to say that Smt. Anamika, complainant filed a complaint under Sections 323, 452, 506 and 34 of the Indian Penal Code, 1860 (in short 'IPC') against Smt. Rita Rani, sister of the her (complainant) husband, Rakesh Kumar, brother of her husband, Gian Chand, father-in-law and Smt. Sulochna, wife of brother of her

husband (*jethani*). It was stated in the complaint that the complainant and her husband were in possession of four rooms, two kitchens and varanda, out of 16 rooms in house No.139, Ward No.11, Thanesar. The accused wanted to get forcible possession of the accommodation in possession of the complainant and her husband. The husband of the complainant is working as Security Man in Kurukshetra University, Kurukshetra. It is alleged that on 31.03.2002, Suresh Kumar, real brother of the complainant came to the house of the complainant at about 12.00 noon. All the accused carrying *dandas* in their hands entered the rooms in possession of the complainant. Accused Gian Chand, Rakesh Kumar, Smt. Rita Rani and Smt. Sulochna tried to pick up household articles belonging to the complainant. When the complainant and her brother did not allow the accused to do so, they raised an alarm. On hearing them, Smt. Lajjo Devi, neighbour came at the spot. Then Smt. Rani gave a *danda* blow to the complainant on her left shoulder. Rakesh Kumar gave a *danda* blow on her left elbow joint. Gian Chand and Smt. Sulochan, accused No.3 and 4 caught hold the complainant and threw her on the floor of room. Thereafter, all the accused gave fist and kick blows to the complainant, which hit on the various parts of the body of the complainant. When Suresh Kumar, brother of the complainant tried to rescue her, he was also given fist, slaps and kick blows by the accused.

The complainant got herself medico-legally examined from LNJP Hospital, Kurukshetra on 31.03.2002 at 2.00 p.m. After

recording the preliminary evidence, the accused were summoned under Sections 323, 452, 506 read with Section 34 IPC.

After recording the pre-charge evidence, arguments were heard and the complaint was dismissed vide order dated 27.10.2010. The said order was upheld in revision by the learned Addl. Sessions Judge, Kurukshetra.

After hearing learned counsel for the parties and going through the judgments of both the courts below, I am of the view that learned Chief Judicial Magistrate and learned Addl. Sessions Judge, Kurukshetra have taken the correct view in the matter.

In this case, material witness Lajjo Devi, neighbour of the complainant, who is stated to come present at the spot was not examined to corroborate the statement of the complainant.

Undisputedly, the house in question belongs to Gian Chand, father-in-law of the complainant, in which complainant and her husband are in possession of two rooms, one kitchen and varanda.

When the statement of the complainant was corroborated by the medical evidence, it comes out that as per statement of Dr. Surender Kumar, CW3, only three injuries were found. All the injuries were simple in nature. Injury No.3 was complaining of pain in the head but no mark of injury was found. Injury No.1 was pink colour abrasion on the left scapular region and injury No.2 was small pink colour abrasion on the left elbow joint.

I am of the view that if *danda* blow is given on the elbow joint, it will leave more than mere pinkish colour abrasion. There is possibility that these injuries can be self inflicted.

Keeping in view the background that the complainant wants to retain possession of the house owned by her father-in-law Gian Chand, I am of the view that learned Chief Judicial Magistrate as well as learned Addl. Sessions Judge, Kurukshetra has taken one of the possible views by disbelieving the oral testimony of the complainant and her witnesses. Therefore, there is no illegality and perversity in the impugned judgments. As such, I do not find any merit in the present petition. The same is accordingly dismissed.

January 15, 2015
sarita

(KULDIP SINGH)
JUDGE