

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-33146 of 2013 (O&M)
Date of Decision: 24.03.2015

Kamlesh Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers 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?*

Present: Mr. Rajesh Khandelwal, Advocate
for the petitioner.

Mr. Kuldeep Tewari, Addl. AG., Haryana
for the State.

Mr. C.R. Dahiya , Advocate
for respondents No.2 to 4, 6 to 7.

R.P. Nagrath, J. (Oral)

The instant petition has been filed for quashing impugned order dated 09.09.2013 (Annexure P-2) and 06.01.2011 (Annexure P-3).

The main attack to the impugned orders by the learned counsel for the petitioner-complainant is that prima-facie case was made out for offences under Section 307, 354 IPC and Section 3 of the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short to be referred as '1989 Act').

I have heard learned counsel for the parties and perused the paper book.

So far as the offence under the 1989 Act is concerned, there is no averment in the complaint itself that the accused persons-private respondents knew about the fact that petitioner belongs to scheduled castes. In the absence of this averment there is no question of attracting Section 3 of 1989 Act. With regard to the offence under Section 307 IPC, there is only one simple injury on the person of the husband of complainant. Even Kashmiri Lal, a witness received two injuries one on the knee which was simple in nature and the other on the right elbow was grievous in nature for attracting Section 325 IPC.

Under the circumstances, therefore, it was not possible to accept the contention that the offence under Section 307 IPC was attracted.

The other contention was that complainant-petitioner is a female and she was given beating on her chest for attracting Section 354 IPC. The dispute between the parties was relating to the possession of property in question.

Civil Suit No.473-C of 14.12.2004 was filed by the husband of petitioner-complainant for permanent injunction in respect of house in question in which Hoshiar Singh accused-respondent No.2 was one of the defendants. The suit was thus filed before the occurrence dated 20.01.2005. That suit for permanent injunction was dismissed on 26.04.2007. Thereafter, respondent No.2 filed

Civil Suit No.376 of 01.11.2007, seeking possession of the property from husband of the complainant and that was decreed in the year 2008. Appeal against the said judgment was dismissed by the first Appellate Court and then RSA was dismissed by this Court. Ultimately, the matter went to the Hon'ble Supreme Court. The Hon'ble Supreme Court also dismissed SLP (C) No.17339 of 2012 on 08.05.2012 on the ground of delay as well as merits. Hon'ble Supreme Court allowed the husband of petitioner-complainant three months time to hand over vacant possession of the house to respondent No.2-Hoshiar Singh, failing which Hoshiar Singh was free to approach the police authorities to get the premises vacated.

Any how learned trial Court exercised discretion on the basis of material available and found sufficient ground for issuing process against accused persons under Sections 323, 325 read with Section 34 IPC only and this opinion was the possible view. Revisional Court also found no justification for a different opinion.

In view of the discussion made above and the facts and circumstances of the case, there is no scope of interference by this Court in the impugned orders in exercise of its jurisdiction in terms of Section 482 Cr.P.C.

Dismissed.

24.03.2015
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(R.P. Nagrath)
Judge