

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

329

CRR No.524 of 2007

Decided on : 02.12.2015

Rattan Singh

... Petitioner

Versus

State of Haryana

.. Respondents

CORAM : HON'BLE MR.JUSTICE M.M.S.BEDI

Present : Mr.Vishawajeet Singh, Advocate for
Mr.Keshav Pratap Singh, Advocate
for the petitioner.
Mr.C.S.Bakshi, Addl.AG, Haryana.

M.M.S. Bedi, J. (Oral)

The petitioner has been convicted by the courts below for having committed offence under Section 354 IPC, and sentenced to undergo simple imprisonment for five months.

Briefly stated, the allegations against the petitioner are that on 08.09.2001, he had caught hold of the hand of his daughter-in-law, Nirmala, with bad intention when son and his wife were not at home. An alarm had been raised by her, upon which, the mother-in-law of the complainant intervened and pushed the petitioner out of the house and rescued the daughter-in-law.

The story of the prosecution has been supported by PW-1, Nirmala, her husband and mother-in-law by appearing as PW-2 and PW-4 respectively.

No doubt for conviction under Section 354 IPC, the statement of the victim above mentioned is sufficient enough. In the present case, her statement has been supported by her husband as

well as the wife of the petitioner which indicates that the complainant and the above said witnesses are overzealous to ensure that the petitioner is convicted.

The reason for the said witnesses having deposed against the petitioner has been sought to be established by the petitioner by producing defence evidence in order to establish enmity. He also made an attempt to prove his *ali bi* by producing his attendance register Ex.D-1, and examining DW-2, Anup Singh, SDC, Electricity Department, Beri who produced copy of attendance register for the date 08.09.2001 Ex.D-1 indicating that presence of the petitioner was marked in the office on that date and no station leave has been taken by him. Even daughter of the petitioner and her father-in-law have appeared as defence witnesses to support the petitioner. DW-3 Lakhmi Chand has established that petitioner had gone in village Berri where he was posted and that he has been falsely implicated on account of pendency of civil and criminal cases.

With the assistance of learned counsel for the petitioner, I have gone through the documents of defence. Exhibit D-1 is a complaint instituted on 02.06.2000 prior to the date of occurrence. The said complaint was filed by the petitioner against his son Sunil, wife Shakuntala and daughter-in-law Nirmala under Sections 324, 325, 342, 506 and 392 and 34 IPC. A perusal of the complaint indicates that he had levelled allegation against the above said persons who are PWs in the present case of having assaulted him with a stick and also snatched a sum of Rs.35,600/- from the

petitioner. The said complaint is sufficient enough to indicate the enmity with the wife, son and daughter-in-law w.e.f. the date prior to the date of incident. Exhibit D-2 is a copy of order under Rule 11, CPC filed in suit for recovery brought by the petitioner claiming that petitioner had purchased FDRs in the name of his son Vinod Kumar and his wife and that he was entitled to the recovery of matured amount of FDRs. The said suit had been filed in the year 2003. These documents indicate that the civil litigation is pending between the parties. The attendance register Ex.D-1 also shows his presence at a distant place. It is sufficient enough to create doubt upon the story put forth by the daughter-in-law. Even otherwise, testimony of the prosecutrix does not inspire confidence and the mala fide of the prosecutrix and close relation of the petitioner i.e. son and wife is apparently probable. The petitioner, an employee of electricity department, having earlier been assaulted by the prosecutrix and other PWs in the present case, I do not have any hesitation to arrive at a conclusion that petitioner has been falsely implicated in the case and that the prosecution agency has failed to establish the charge under Section 354 IPC beyond shadow of doubt.

In view of the facts and circumstances of the case, conviction orders passed by the courts below are hereby set aside. The petitioner is ordered to be acquitted giving the benefit of doubt.

Petition is allowed.

[M.M.S.BEDI]
Judge

02.12.2015