

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

**Date of decision:04.09.2015**

Harbhajan Singh

.....Petitioner

v

State of Punjab

.....Respondent

**CORAM: HON'BLE MR.JUSTICE JASWANT SINGH**

Present:- Mr.Bikramjit Aroura,Advocate for the petitioner.  
Mr.Mikhil Kad,AAG Punjab

**Jaswant Singh,J.**

Convict petitioner is in revision aggrieved against the judgment and order dated 20.5.2015 passed by learned Additional Sessions Judge, Amritsar whereby while upholding the conviction of petitioner for the offence punishable under Section 354 IPC, quantum of sentence for the said offence awarded by learned trial court for two years and fine of Rs.200/- and in default RI for 7 days, vide judgment and order dated 17.2.2014, was reduced to 1½ year.

It is submitted by the learned counsel for the petitioner that there is delay of four days in lodging the FIR for which there is no plausible explanation. It is further submitted that prosecution story is not trustworthy as complainant instead of reporting the incident to her in laws or parents whose houses are situated at a stone's throw from her house. It is then submitted that place of occurrence was alleged to be inside room whereas as per site plan on record the occurrence took

place in the open. It is next alleged that story of torn shirt was an afterthought as the said fact was neither stated in her statement Ex.PA nor in her evidence recorded in the Court. It is thus contended that the prosecution has failed to prove the case beyond shadow of doubt and the petitioner has been falsely implicated due to party faction as petitioner, an Ex-Sarpanch and complainant have affiliation with different political parties.

After hearing the learned counsel, I find no merit in the submissions made on behalf of the petitioner.

The case of the prosecution is based on the statement of complainant who stated that on 28.3.2010 she was alone in her house as her husband Sarwan Kumar accompanied by accused Harbhajan Singh had gone to Gurudwara Takkar Sahib, but at about 10 am accused Harbhajan Singh returned to her house to take hacksaw and after she had given him hacksaw accused started outraging her modesty which attempt was resisted by her upon which the accused ran away. It was further alleged by the complainant that she went to the house of the accused and complained about the said act of accused. It was further alleged by her that after the return of her husband she reported the matter to him. The respectables of the village were trying to effect compromise between the parties which apparently failed and hence matter was reported to police for action in the matter. The torn shirt was also produced at the time of making of her statement before the police.

After completion of investigations challan was presented

and the accused was charge sheeted for the offence under Section 354 IPC. He pleaded not guilty and claimed trial.

Now adverting to the submissions made by the learned counsel for the petitioner, complainant Sunita while appearing in the witness box supported the case of the prosecution and so did her husband Sarwan Kumar. Both these witnesses have stated that talks of compromise were going on but could not materialise and in this manner there was delay of four days in reporting the matter to the police. Both these witnesses were cross examined however, nothing fruitful could be extracted from their cross examination.

The accused petitioner cannot take any benefit of the fact that the complainant first informed her husband about the incident and did not talk about the same to her parents or inlaws who reside nearby. I am in agreement with the observation of the learned appellate court that it is natural for a lady to first inform her husband about such type of occurrence and then to proceed further in the matter.

As regards the place of occurrence is concerned as per prosecution story the incident took place inside the house of the complainant and thus even if house is situated in street and surrounded by many houses, yet absence of inhabitants of the street or nearby houses cannot be ruled out who could have otherwise witnessed the occurrence. Moreover, had there been any person present at the scene of occurrence no person of ordinary wisdom would have acted in the manner, of which the petitioner is guilty.

Complainant at the time of lodging FIR had stated that in the incident the accused had torn her shirt which she took along while reporting the matter to the police and the same was taken into possession vide memo Ex.PB. Thus, it cannot be believed that story of torn shirt is an afterthought one.

So far as submission of party faction is concerned it was sought to be projected before the Courts below that accused is an Ex-Sarpanch and was implicated at the asking of one Karnail Singh another Ex-Sarpanch. However, this argument has rightly been rejected by the learned appellate court by holding that no woman will put her respect/honour at stake at the instance of another person. The complainant in her cross examination stated that she had no political rivalry with the accused.

In view of the foregoing discussion this Court is of the opinion that the prosecution has been able to prove its case beyond any shadow of doubt and no case for interference in the present revision petition is made out.

Dismissed.

**04.09.2015**  
joshi

**(Jaswant Singh)**  
**Judge**