

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

CRA-S-1199-SB-2014 (O&M)
Date of Decision: 14.01.2016

Manisha Yadav

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. Manoj Kumar, Advocate
for the appellant.

Ms. Mahima Yashpal, AAG, Haryana,
counsel for the respondent-State.

Mr. Bijender Dhankar, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

1. This appeal is by the complainant aggrieved with the judgment passed by the Additional Sessions Judge, Faridabad who acquitted the private respondent in FIR No. 360 dated 08.09.2013, registered under Section 354-B/506 IPC and Section 8 of POCSO Act, 2012. The case was registered at Police Station SJM Nagar, Faridabad.

2. A complaint was made by the appellant relating to the incident which took place in the class on 5th September, 2013. The appellant had alleged that she along with her friend were sitting in the class-room when respondent no.2

Bhisham came and brought his face very close to her face

with an ulterior motive, on which she protested and Bhushan caught hold of her hand and slapped her on the face. Even thereafter the accused continued to stare on her with an evil intention. In this incident, the spectacles of the complainant were broken. While leaving, the accused threatened to kill her and declared that she could not harm him. The accused was arrested, investigations were completed and challan was presented against him. The case was committed.

3. Charge under Section 354-D, 506 IPC and Section 12 of the POCSO Act was framed to which he pleaded not guilty. The prosecution examined the complainant and one of her friends, besides the official witnesses.

4. The accused abjured the trial and claimed innocence. In defence, he examined three witnesses.

5. The trial Court after examining the evidence acquitted the accused as the only eye-witness failed to support the complainant. It also found that there was a delay in the FIR and there were major contradictions. It also noted that the complainant's parents were into number of litigations and they themselves had faced trial of assault and their trial had ended in their conviction.

6. I have heard the counsel for the petitioner and the State counsel.

7. The incident is alleged to have taken place in the class room at 10:30 AM. A number of students are said to have been present when the incident is alleged. The version given by the prosecutrix did not get support from PW1

Vijayshri. The complainant herself admitted that there were about 40 students in the class. The complaint was given to the police after four days. Both the Courts below have found that the prosecution had been unable to prove the case. It had noted that Vijayshri PW1 even failed to identify the accused in the Court. I have no reason to take a different view. The finding recorded by the Courts below can not be said to be perverse, illegal or based on irrelevant or inadmissible evidence.

The appeal is dismissed as it lacks merit.

(ANITA CHAUDHRY)
JUDGE

14.01.2016
sunil