

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

**Criminal Misc. No.A-1152-MA of 2014 (O&M)  
Date of Decision: 05.02.2016**

Kavita

...Applicant(s)

Versus

Soni & others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

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

Present:- Mr. Namit Sharma, Advocate  
for the applicant.  
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**HARI PAL VERMA J.(Oral)**

This is an application filed under Section 378(4) CrPC for grant special leave to appeal against the judgment of acquittal dated 7.2.2014 passed by learned Judicial Magistrate Ist Class, Karnal, whereby the complaint filed by the applicant under Sections 323/148/149/452/341/315/511/504/506/34 IPC has been dismissed and accused-respondents have been acquitted of the charges levelled against them, as the applicant-complainant has failed to prove the guilt of the respondents-accused beyond reasonable doubt.

Briefly stated, the applicant-complainant had filed the aforesaid complaint on the premises that on 21.7.2009 at about 3-00 P.M., accused-respondent no.1 namely Soni was carrying soil in the trolley of his tractor. As he was driving the tractor in a rash and negligent manner, he smashed it in the wall of the house of the applicant-complainant. Due to this, father-in-law of the applicant-complainant came out of the house and noticed cracks in the wall. He showed his anguish about the incident and stated that he will complain about the said incident and the behaviour of the accused to the Panchayat or police. This annoyed the respondent-accused and he started abusing her father-in-law and also threatened him that in case the matter is reported to the panchayat or police, he will be done to death. After some time, the accused-respondents along with two unknown persons came to the house of the applicant-complainant and thrashed her as well as her father-in-law. They gave many blows in the stomach of the complainant in order to terminate her pregnancy. When her mother-in-law and husband came to their rescue, they were also given beatings. The accused also snatched the gold chain and gold nose-pin of the applicant-complainant. It is only when their neighbours namely Sumer and Dilawar reached at the spot, they were rescued. On medico-legal examination, the matter was reported to the police, but no action was taken by the police and therefore, the complainant has filed the present complaint.

In pre-charge evidence, complainant-Kavita examined herself as CW-1, her mother-in-law Reshma as CW-2, her father-in-law Jagan Nath as CW-3 and Dilawar as CW-4 and closed the evidence on 12.7.2013.

The accused-respondents were charge-sheeted for offence under Sections 452/323/506/34 IPC, to which they pleaded not guilty and claimed trial. In after-charge evidence, complainant-Kavita examined herself as CW-1, Dilawar as CW-2, her husband Birbal as CW-3 and as mother-in-law Reshma as CW-4 and closed her evidence.

Statement of the accused under Section 313 CrPC were recorded, to which they denied the entire incriminating evidence led by the complainant against them. However, they did not lead any defence evidence.

The trial Court after hearing the both the parties and appreciating the evidence on record held that no external injuries were found to the complainant Kavita and she has only complained about pain in her abdomen and thus, her version was found to be highly improbable that though about six persons hit her and her family members with iron rods and *lathis* etc., still no injuries were caused to anyone except the complainant and even her version was also not found to be sustainable. Accordingly, the instant complaint was dismissed by the trial Court and accused-respondents have been acquitted of the charges levelled against them vide judgment dated 7.2.2014.

It is in these circumstances, the applicant-complainant has filed the present application 378(4) CrPC for grant of leave to appeal against the aforesaid judgment dated 7.2.2014.

Learned counsel for the applicant has argued that the trial Court has wrongly acquitted the accused-respondents of all the charges levelled against them by giving the benefit of doubt without taking into consideration the evidence led by the applicant-complainant in its correct perspective.

I have heard learned counsel for the applicant and perused the impugned judgment.

Apart from the contradictions in the version of the applicant-complainant, as discussed above, there are many other material contradictions in the testimony of all the witnesses examined by the complainant. Interestingly, the complainant has herself admitted in her cross-examination that scuffle took place in the street for 15/20 minutes and accused Soni was taking tractor-trolley loaded with soil to the house of Ram Rattan which is adjoining to the house of the complainant and thus, allegations under Section 452 IPC were not proved. As regards allegations under Sections 323 and 506 IPC are concerned, the complainant could not prove the same, as the story put forth by the complainant was not found plausible. Even the testimony of CW-2 Dilawar is also not sustainable, as he has not explained as to how he was present at the spot which is 7/8 kms. away from his village and even if he was working in refinery, then his duty was from

9.00 am to 4.00 p.m. Thus, the complainant has not been able to prove his case beyond reasonable doubt.

The scope of revisional jurisdiction is vested with limited powers. Hon'ble Apex Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:-

*“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”*

Therefore, this Court do not find any illegality in the impugned order and accordingly, the prayer of the applicant-complainant for grant of leave to appeal is declined.

The application is dismissed.

Since the application for leave to appeal has been dismissed on merits, no further order is required to be passed in the application under section 5 of the Limitation Act for condonation of delay of 102 days in filing this application under Section 478(4) CrPC.

February 05, 2016  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**