

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

CRM-M-14525 of 2015.

Decided on:-January 18, 2016.

Darshana Rani.

.....Petitioner.

Versus

Narain Dass and others

.....Respondents.

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. J.P. Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J.

Petitioner Darshana Rani has filed the present petition under Section 482 Cr.P.C. seeking setting aside the order dated 19.11.2011 passed by learned Judicial Magistrate 1st Class, Karnal and the judgment dated 19.11.2014 passed by learned Additional Sessions Judge, Karnal.

Vide order dated 19.11.2011, learned Magistrate did not find any substance, in the complaint filed by the petitioner under Sections 406, 447, 448, 451, 453 and 506 read with Section 34 IPC, worth summoning the accused and accordingly, dismissed the same. The petitioner filed a revision petition against the said order, but the same was also dismissed by

learned Additional Sessions Judge, Karnal vide order dated 19.11.2014.

Hence, the present petition.

Learned counsel for the petitioner has argued that the Courts below have wrongly dismissed the complaint and the revision petition by observing that the petitioner has not mentioned the date and time of the trespassing of her house. Since the petitioner was with her sisters at Pehowa during the relevant period, she could not state on which date and time, the accused trespassed into her house. Similarly, non-placing a copy of application moved to the SHO, Police Station Butana on record cannot be a ground to reject the complaint. Further, minor contradictions in the testimonies of Narain Dass (CW1) and Ashok Kumar (CW2) are not of such nature which can be the basis for dismissal of the complaint. The petitioner-complainant is an old lady more than 60 years of age and will not approach the Court unless there is a cause for her to do so.

I have heard learned counsel for the petitioner.

The petitioner-complainant is the aunt of respondents-accused No.1 and 2 and residing in House No.7-E, Station Area, Ward No.8, Nilokheri, District Karnal in a separate portion. The accused persons have renovated the portion of the house in their possession. Said House No.7-E was allotted to the father-in-law of the complainant, namely, Tila Ram son of Sham Dass vide conveyance deed dated 4.1.1972 (Mark-A) and he gave the house in question in a family settlement to the husband of the complainant as well as father of the accused persons, who are brothers and sons of said Tila Ram.

The main contention of the petitioner-complainant is that the accused persons have trespassed into her house by breaking open the roof of her house and encroached upon the same and had also thrown away the luggage of the petitioner from her house. However, the petitioner-complainant, when stepped into the witness box as CW3, has failed to mention the date and time when the accused persons allegedly trespassed into her portion and had thrown away her luggage. The petitioner has filed a civil suit, but she did not file any document in the present complaint and even failed to mentioned particulars of said civil suit not only in her complaint, but in her testimony as well. Further, the testimonies of Narain Dass (CW1) and Ashok Kumar (CW2) are contradictory to each other. Whereas Narain Dass (CW1) has deposed that the complainant had come to him on 7.10.2010 and disclosed him that the accused persons have trespassed into her house, Ashok Kumar (CW2) has deposed that he along with Narain Dass and Darshana Devi went to the spot when accused persons were damaging the roof of the house of the complainant. He further deposed that he and Narain Dass (CW1) tried to stop them from damaging the roof. However, these facts were not mentioned by the complainant in the pleadings of the complaint. Therefore, the revisional Court has also dismissed the revision petition by observing that the civil suit is pending between the parties and interim relief in favour of the complainant has already been granted by the civil Court, as apparent from order dated 9.11.2010 passed by the civil Court.

In view of the above, this Court finds that the petitioner has failed to establish her complaint and learned Magistrate has rightly dismissed the same. Therefore, this Court does not find any illegality in the impugned orders passed by the Courts below and affirming the same, the present petition, being devoid of any merit, is dismissed.

January 18, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE