

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-27758 of 2011 (O&M)
Date of Decision: February 02, 2016

Sunita

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Amrinder Verma, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

Ms.Loveleen Dhaliwal, Advocate
for respondents No.2 to 6.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing the impugned order dated 02.04.2009 passed by learned Addl. Sessions Judge-I, Jind, dismissing the revision petition against the order dated 23.08.2006 passed by learned SDJM, Safidon, whereby the complaint filed by the petitioner was consolidated with the State case of FIR No.295 dated 03.08.2003 and the order dated 06.09.2008 passed by learned SDJM, Safidon, acquitting respondents No.3 to 5 without taking into consideration the evidence in the complaint case.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.2 to 6 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that in the order dated 06.09.2008 passed by learned SDJM, Safidon (Annexure P-1), it is held that as complaint case was clubbed with the FIR case, the application under Section 319 Cr.P.C. was not pressed by the prosecution and the Court from the complaint as well as evidence adduced by the complainant, summoned Chanderpal and Man Singh under Sections 323, 452 and 506 IPC as accused for facing trial in the FIR case. This order has not been challenged at that time. On the same day i.e. 23.08.2006, as per Annexure P-2, learned SDJM, Safidon, also passed the order in view of Section 210 Cr.P.C., vide which the complaint titled as 'Sunita vs. Chanderpal etc.' is ordered to be clubbed with case FIR No.295 dated 03.08.2003 titled as 'State vs. Rohtash etc.'.

At the time of arguments, nothing has been shown as to how these orders are illegal. When the occurrence is the same and FIR case as well as complaint case have arisen from the same occurrence, then no illegality has been committed by the Court below in clubbing the complaint case with the State case. Furthermore, the order regarding clubbing of the complaint case with State case has not been challenged during the trial by the present petitioner.

Therefore, this order has become final.

Learned counsel for the petitioner argued only that the Court has not considered the evidence produced in the State case relating to Chanderpal and Man Singh, who were summoned in the complaint. For this, he relied upon the heading of the judgment dated 06.09.2008 passed by learned SDJM, Safidon, where the names of Chanderpal and Man Singh were not mentioned.

I have gone through the impugned judgment dated 06.09.2008 passed by learned SDJM, Safidon. The prosecution examined five witness including PW-1 Sunita Devi, complainant. PW-2 EHC Ramphal, PW-3 ASI Subhash Chand, Investigating Officer, PW-4 Dr.Renu Aggarwal and PW-5 Nathu Ramas. Learned SDJM, Safidon, after appreciating the evidence on record, acquitted the accused by holding that prosecution has failed to bring home the guilt of the accused beyond reasonable doubt. The perusal of the judgment passed by learned SDJM, Safidon, shows that the facts of the case as well as evidence have been discussed regarding all the accused persons namely, Chanderpal, Man Singh, Pawan Kumar, Amit and Rohtash that they broken the door and they were carrying sticks and rod. Chanderpal gave blow of rod to complainant on her head, Pawan had pushed her. Amit and Rohtash had embraced her and also given the blow of fist and slaps. Man Singh gave kick blows on her sensitive parts and she became unconscious. The Court also discussed the statements of PW-5 Zile Singh and PW-1 Sunita Devi and found different versions by both these PWs. PW-1 Sunita Devi proved the application dated 01.08.2003, in which she stated that on 31.07.2003

at about 6.00 P.M., she was sitting on roof of her house. She heard the sound of knocking on the door and she saw that in the street three persons were coming and due to the apprehensions, she closed the door. When three persons, whose names she was not knowing, were trying to push and pull the door, then she opened the door and they came inside. They pushed her and she fell down. One of them struck iron rod on her head and her father-in-law carried her to the hospital for treatment. But when the complainant appeared as witness, she named all the five accused that they tried to push and pull down the door. Learned Court below held that complainant's statement is contradictory to the averments of the application dated 01.08.2003. The Court held that PW-1 Sunita Devi stated that accused persons were carrying sticks and rod. Chanderpal had given the blow of rod and Pawan had pushed her. Amit and Rohtash had embraced her and also given the blow of fist and slaps. Chanderpal had given the blow of rod on her head and Man Singh had given the blow of kick on her private parts and she became unconscious.

The Court below after discussing the statements of the star witnesses and contradictions in their versions, extended the benefit of doubt to all the accused. In no way, it can be held that the impugned judgment dated 06.09.2008 relates only to three accused i.e. Pawan Kumar, Amit and Rohtash, as given in the heading of the judgment. The mere fact that names of two accused have not been mentioned in the heading, is no ground to say that learned SDJM, Safidon has not applied the judicial mind or the findings are incorrect.

The judgment dated 06.09.2008 passed by learned SDJM, Safidon is correct, as per evidence and law.

The present petitioner has also filed the revision petition asking for the same relief, which was also dismissed by learned Addl. Sessions Judge-I, Jind vide order dated 02.04.2009. I have gone through the judgment passed by learned Addl. Sessions Judge-I, Jind. The reasonings given in the judgment, in no way, can be held as perverse. The perusal of the orders passed by learned Courts below nowhere shows that these are perverse or against the law.

In view of the above discussion, I find that orders passed by the Courts below are correct, as per law and do not require any interference. In no way, it can be held that orders passed by the learned Courts below are illegal and amount to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

February 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE