

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

MAMTA MALHOTRA
2016.05.31 15:38

Criminal Revision No.1923 of 2011 (O&M)

Date of decision: 18th May, 2016

Sochi alias Sheo Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Amit Mehta, Advocate,
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana,
for the respondent(s)-State.

INDERJIT SINGH, J.

Petitioner Sochi alias Sheo Chand has preferred the instant revision petition against respondent-State of Haryana, challenging the impugned judgment dated 16.05.2011, passed by the Addl. Sessions Judge, Hisar.

Learned State counsel appeared and contested the instant petition.

From the record, this Court finds that the challan has been presented against the petitioner in case FIR No.313 dated 13.12.2003, registered at Police Station Adampur, under Sections 354, 452, 506 IPC.

Brief facts of the case, as mentioned in the judgment dated 31.03.2009, passed by the learned Judicial Magistrate Ist Class, Hisar, are as under:-

“The brief facts of the case are that on 13.12.2003 Tijjo Devi complainant came in the police station alongwith her husband Kashi Ram and moved an application in the name of SHO P.S.Adampur with the averments that she is resident of village

Chuli Bagrian. On 12.12.2003, she was alone in her home. The children had went to the school and her husband was in the fields. It was 3:00 p.m., then Sochi son of Naina Ram, caste Jat resident of village Chuli Bagrian entered in her house with his band intention, caught his hand and gave bite on her lips and in that process the bangle wearing in the right hand broke down. She shouted. After hearing the noise, her mother in law Naina Devi entered in her house, by seeing her mother in law, Sochi started to run away from house and gave threaten that he will kill her if she narrated the story to anyone. When her mother in law tried to catch Sochi, then he pushed and her mother in law fell down and she also received injuries on the thumb. All these facts were told by her in the evening when her husband came to house. Then many people of the village came their house for some settlement but she refused because Sochi insulted her. Legal action be taken. On this statement, the FIR was registered. After completion of usual formalities of investigation, challan was put to the Court for trial.”

Learned trial Court, after discussing the evidence, acquitted the accused of the charges under Sections 354, 452 and 506 IPC vide judgment dated 31.03.2009.

Against the said judgment, appeal was filed by State of Haryana against the petitioner and the learned Addl. Sessions Judge, Hisar vide judgment dated 16.05.2011, convicted and sentenced him to undergo rigorous imprisonment for a period of 02 years under Section 354 IPC; rigorous imprisonment for a period of 03 years and to pay a fine of Rs.1,000 and in

default of payment of fine to further undergo rigorous imprisonment for a period of 02 months under Section 452 IPC and rigorous imprisonment for a period of 01 year under Section 506 IPC.

Aggrieved against the said judgment of conviction/sentence, the petitioner has preferred the instant petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record of the learned Courts below.

From the record, this Court finds that the findings returned by the learned Appellate Court in its judgment dated 16.05.2011, are correct and as per evidence and law. Complainant Teejo Devi has appeared as a witness and deposed as per prosecution version. PW2 Kanshi Ram has also supported the prosecution version. PW3 Dr. Kishan Kumar has also supported the version of the complainant as one of the injury was found on the lip and the other injury was found on the back of right wrist. Learned Appellate Court, after discussing the statements of the complainant, her husband and the medical evidence and also the evidence of the Investigating Officer has found that the learned trial Court has acquitted the accused on surmises and conjectures. The learned Appellate Court has further held that accused was a co-villager and the occurrence took place at day time. It has also come on record that accused has bitten the lip of the complainant and that injury is there, as per MLR. The identity of the accused has been duly proved. No fault could be found with the testimony of complainant Teejo Devi on the ground that accused had no family terms or intimacy with her husband. The accused was already named in the FIR and he was a co-villager and his identity was not in dispute, therefore, there is no need for test identification parade. Perusal of the impugned judgment, passed by the

learned Appellate Court shows that the evidence has been appreciated in the right perspective. In no way, these findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread and as to which evidence has not been considered by the learned Appellate Court. Therefore, the impugned judgment of conviction, passed by the learned Appellate Court is correct and as per law and it does not require any interference from this Court.

Learned counsel for the petitioner also contended for reduction of sentence as the petitioner is a poor person and he is the only bread earner of his family and he is suffering from the long protracted criminal proceedings since 2003.

Keeping in view the facts and circumstances of the present case and the fact that he is a poor person, first offender, the only bread earner and suffering from long protracted criminal proceedings and he has already undergone more than 01 year 05 months and 06 days of actual sentence including remission of 02 months and 11 days, the sentence of the petitioner is reduced to the period already undergone by him. Fine has already been paid, as stated by learned counsel for the petitioner

18th May, 2016
mamta

(INDERJIT SINGH)
JUDGE