

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.182 of 2013 (O&M)****Date of Decision: February 19, 2016**

Jaswinder Kaur

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Arun Takhi, Advocate
for the petitioner.Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.Mr.H.S.Bedi, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

The present revision petition has been filed by the petitioner Jaswinder Kaur against State of Punjab and other respondents, challenging the impugned judgment 10.12.2009 passed by learned Sub Divisional Judicial Magistrate, Balachaur, whereby all the accused except Darshan Singh and Balbir Singh were acquitted and also challenging the judgment dated 23.10.2012 passed by learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, vide which the appeal filed by the petitioner was dismissed whereas appeal filed by the accused-respondents Darshan Singh and Balbir Singh was allowed and they were also acquitted of the charges framed

against them.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.2 and 3 appeared and contested the revision 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 Jaswinder Kaur filed a complaint against Darshan Singh and 18 other accused under Sections 452, 323, 504, 506, 148 and 149 IPC. It is stated in the complaint that on 29.12.2003 at about 12.00 noon, all the accused while armed with deadly weapons like dangs, forming an unlawful assembly, criminally trespassed into the house of the complainant. At that time the complainant was alone in her house. Accused were armed with dangs while accused Jaswinder Kaur, Deesho, Mohan Kaur and Kaka were empty handed. It is further alleged that accused Darshan Singh raised *lalkara* to finish the complainant. At this, Darshan Singh gave dang blow which hit on the left side of chest of complainant. Accused Bittu gave dang blow which hit on her right thigh and accused Balbir Singh gave dang blow which hit on her right thigh. Other accused No.4 to 15 gave fist and kick blows which hit on the left side of her chest and on the lower jaw. Accused No.16 to 19 pulled the complainant from her hair and dragged her out of the house to the courtyard and also gave fist and kick blows. When the complainant raised alarm, Harjinder Kaur came at the spot, witnessed the entire occurrence and saved the complainant from the clutches of

the accused. Thereafter, all the accused ran away from the spot after giving threats.

All the accused were summoned under Sections 452, 323, 506 and 148 IPC. During the trial, accused Tara Singh died and proceedings against him were abated.

In pre-charge evidence, the complainant examined herself as CW-1, and also examined CW-2 Dr.Sunil Pathak, CW-3 Harjinder Kaur and closed her evidence. Charges under Sections 452, 323 read with Sections 148 and 149 were framed against the accused, to which they pleaded not guilty and claimed trial. The complainant led evidence. The accused took the plea that they have been falsely implicated in this case due to party faction, political rivalry and old standing litigation. In defence, accused examined DW-1 Parsidh Singh and DW-2 Balwinder Singh.

Learned SDJM, Balachaur, after discussing the evidence on record, convicted accused Darshan Singh and Balbir Singh under Sections 323 and 452 IPC and all other accused were acquitted.

Darshan Singh and Balbir Singh and present petitioner filed separate appeals before the Sessions Court. Learned Addl. Sessions Judge, SBS Nagar, accepted the appeal filed by Darshan Singh and Balbir Singh and acquitted them of the charged framed against them whereas the appeal filed by the present petitioner was dismissed vide impugned judgment dated 23.10.2012.

Aggrieved from the above-said judgments, present revision petition has been filed.

From the perusal of the record, I find that the impugned judgment passed by learned Addl. Sessions Judge, SBS Nagar, is correct, as per evidence and law. The evidence has been re-appreciated in right perspective by learned Addl. Sessions Judge, SBS Nagar.

First of all, version of the complainant cannot be believed. The genesis of the occurrence has been concealed by the complainant and she has tried to exaggerate the version. The complaint has been filed against 19 persons and it is stated that they were armed with dangs etc. and all of them have given her kick and fist blows. As per the statement of PW-2 Dr.Sunil Pathak, only five injuries were found on the person of the complainant. Out of the five injuries, two injuries were complaint of pain and three injuries were contusions. First injury was contusion 3 x 3 cm. blue on left chest back 6 cm. from midline. Second injury was contusion right thigh outside 6 x 6 cm. blue-green colour in upper part at junction of torso and third injury was 4 x 4 cm. below of injury No.2 blue green. The weapon stated to be used for injuries was blunt and all the injuries were declared simple. It looks improbable that so many persons armed with dangs while entering into the house of the complainant, would cause these injuries. They might have given much more serious injuries. Otherwise also, from the MLR, it cannot be held that so many persona have given fist and kick blows to the complainant. The occurrence is of 29.12.2003 and the complaint was filed on 23.04.2005 and delay in filing the complaint has not been satisfactorily

explained. There is nothing on the record to explain such a long delay in filing the complaint. Rather, from the evidence on record, it looks that this delay has been utilized to exaggerate the version of the complainant, which creates reasonable doubt in the prosecution version. Learned Addl. Sessions Judge, SBS Nagar, while acquitting accused Darshan Singh and Balbir Singh also held that as per the complainant's version, she was present in the house when all these 19 persons gave kick and fist blows but this statement is not supported by medical version. Learned Addl. Sessions Judge also held that if the injuries have been given to the complainant as alleged, then there must be more injuries on the person of the complainant.

The Court after discussing all these facts and by giving benefit of doubt, acquitted the accused. In no way, the impugned judgments passed by the Court below can be held as perverse or against the evidence. Reasonable doubt exists in the prosecution version. The findings in no way can be held as against the evidence and law. Rather, the findings have been given by learned Addl. Sessions Judge, SBS Nagar, while appreciating the evidence in right perspective and are correct and do not require any interference from this Court.

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

February 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE