

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

CRR No.1606 of 2015 (O&M)
Decided on:-24.05.2016.

Roshni Devi and another

.....Petitioners.

Versus

State of Punjab and others

.....Respondents.

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

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

Present:- Mr. Jasbir Singh, Advocate
 for the petitioners.

HARI PAL VERMA, J.

Petitioners Roshni Devi and Hem Raj have filed the present revision petition against judgment dated 24.12.2014 passed by learned Additional Sessions Judge (FTC), Rupnagar whereby their appeal against the judgment dated 8.4.2013 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, was dismissed.

Vide judgment dated 8.4.2013, learned Magistrate acquitted the accused, respondents No.2 to 4 herein, of the charge framed against them by giving them the benefit of doubt.

Briefly stated, an FIR No.55 dated 19.6.2008 under Sections 323, 341 and 506 read with Section 34 IPC was registered against the respondents-accused at Police Station Nurpur Bedi, District Rupnagar. As per said FIR, on 17.6.2008 complainant Roshni Dvi got her statement recorded to the police that her husband and her son have gone to Kuwait. On that day, she and her son Hem Raj went to prepare their fields for sowing maize crop. Her brother-in-law (Jeth) Tirath Ram has his adjoining field, who had demolished the dividing line and her son tried to make it in straight line. In the meantime, accused Tirath Ram having spade, his son Ram Kumar having spade and his other son Radhey Sham having a Danda came there and started beating Hem Raj. Satya Devi wife of Tirath Ram also came there and threw the complainant on the ground by pulling her hairs.

It has further been alleged that when the complainant and her son were coming towards their house, they were wrongfully restrained by the accused who threatened that they would kill them and they snatched ear ring of the complainant. The motive behind this occurrence is land dispute and the accused want to take forcible possession.

The matter was investigated and report as provided under Section 173 Cr.PC was produced in the Court. As required under Section 207 Cr.PC, copies of Challan were supplied to the accused free of cost and charge under Sections 341, 323 and 506 IPC was framed against the accused to which they did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined as many as five witnesses, namely, complainant Roshni Devi as PW1, Hem Raj as PW2, HC Kulwinder Singh as PW3, Dr. Sunil Kumar Pathak as PW4 and ASI Jaspal Singh (retired) as PW5.

Thereafter, statements of respondents-accused under Section 313 Cr.PC were recorded wherein they denied all the allegations against them and pleaded their false implication. However, they did not lead any evidence in their defence.

Learned trial Court after considering the entire evidence had acquitted the respondents-accused of the charge framed against them vide judgment dated 8.4.2013.

Aggrieved with the same, the petitioners filed an appeal in the Court of Session, but the same was also dismissed by learned Additional Sessions Judge (FTC), Rupnagar vide judgment dated 24.12.2014.

It is in these circumstances, the petitioners have filed the present revision petition before this Court.

Learned counsel for the petitioners has argued that the Courts below have failed to appreciate the overwhelming evidence produced on record by the prosecution. Dr. Sunil Kumar Pathak (PW4) has proved the injuries on the person of complainant Roshni Devi. The version of complainant Roshni Devi (PW1) has been corroborated by her son Hem Raj (PW2), but the Courts below have failed to consider the same. He has prayed that the impugned judgments passed by the Courts below are based on surmises and conjectures and are liable to be set aside.

I have heard learned counsel for the petitioners and perused the paper book.

Learned trial Court after considering the entire evidence has found that there were material discrepancies in the statements of witnesses particularly of the complainant and her son. The distance of hospital from the place of occurrence on a motorcycle is admittedly not more than of 15 minutes. The alleged occurrence had taken place at about 3.00 p.m., whereas the complainant was brought to hospital at 7.15 p.m. by Surinder Kaur. Similarly, injured Hem Raj (PW2) was brought to the hospital at about 7.00 p.m. by Gurdas Singh. The delay of about 4 hours has not been explained. Moreover, said Gurdas Singh and Surinder Kaur have not been examined by the prosecution. Even their names were not cited in the list of witnesses.

Learned trial Court has observed that though injuries on the persons of complainant and her son are proved, but there is no sufficient evidence that the same were caused by the accused. It is settled principle of criminal jurisprudence that benefit of doubt always goes to the accused. Similarly, the appeal against acquittal of the respondents-accused has been dismissed by learned Additional Sessions Judge (FTC), Rupnagar by holding that the trial Court has passed the judgment after appreciating the evidence on record.

Moreover, 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.”

Against the concurrent findings given by the Courts below, learned counsel for the petitioners has not been able to prove that in what manner, impugned judgments passed by the Courts below suffer from illegality which may warrant interference of this Court by invoking its revisional jurisdiction.

In view of the above, judgment dated 8.4.2013 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib as well as judgment dated 24.12.2014 passed by learned Additional Sessions Judge (FTC), Rupnagar are affirmed and the present revision petition, being devoid of any merit, is dismissed.

May 24, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE