

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

**CRR No.3934 of 2014 (O&M)
Date of Decision: July 12, 2016**

Gurdev Kaur

...Petitioner

VERSUS

Gurmit Singh @ Tehla and another

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Achin Gupta, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurdev Kaur against respondents Gurmit Singh @ Tehle and State of Punjab, challenging the impugned judgment dated 04.09.2014 passed by learned Addl. Sessions Judge, Bathinda, vide which appeal filed by the respondents against the judgment of conviction and order of sentence dated 05.04.2011 passed by learned Judicial Magistrate Ist Class, Bathinda, was accepted and they were acquitted of the charges.

I have heard learned counsel for the petitioner and have gone through the record.

The brief facts of the case as noted down in the judgment passed by learned Addl. Sessions Judge, Bathinda, are as under:-

“The brief facts of the case are that instant complaint u/s 452, 323 IPC read with section 34 IPC was filed by complainant Gurdev Kaur against Guddi alias Surjit Kaur and present appellant Gurmit Singh alias Tehla on the ground that

complainant is resident of Kothe Amarpura, Bhagtuana, Distt. Bathinda and she is a peace loving and law abiding lady and has full faith in the law of the land. She stated that she belonged to poor section of the society i.e. scheduled caste and accused are persons of high caste i.e. Jat Sikh caste and they hate the people of scheduled castes or scheduled tribes as well as other poor categories and have no respect for such castes and the accused consider them above the poor people. Accused No.1 Guddi alias Surjit Kaur was also residing in the same locality to which complainant belongs but she was the lady of bad/loose character and the persons of bad society i.e. Gunda elements used to frequent her house in which accused no.2/appellant was also included and she was having illicit relations with other persons and she was also women supplier and has connections with higher authorities also. Complainant as well as other inhabitants of locality tried their level best to make understand accused no.1 Surjit Kaur and to stop her to indulge in immoral activities but she refused to pay any heed to their request and she remained busy her in immoral acts. She further stated that she is having a son who is employed as teacher in Dabwali and daughter namely Paramjit Kaur who was aged about 28 years at that time and used to reside with the complainant in her house but since due to the immoral activities of accused no.1 they used to remain confined in their house. She further complained that on 29.9.2005 at about 5.15 p.m. accused no. 2/appellant was in a drunk condition came in the house of accused No.1 and afterwards he came in front of the house of complainant in that very position and started using unparliamentary language and when the complainant objected to the same accused no.2/appellant entered into their house and picked up a bickering with the complainant and he threw the complainant aside and picked a stick from her house and attacked her, daughter Paramjit Kaur who had come to her rescue and she was hit by the appellant due to which her arm was broken. Then both the accused gave beatings to the complainant and her daughter Paramjit Kaur due to which Paramjit Kaur received multiple injuries and arm of Paramjit Kaur was also broken. Then accused no.1 Surjit Kaur uttered the following words :-

“KUTIAN CHUHRIAN DA DIMAG SATVEN ASMAN CHARIA PHIRDA HAI ATE EH JATTAN NAAL PANGE LENDE HAI MERI POHANCH BOHAT WADE AFSTRAN TAX HAI SONU BASTI VICHON KADHKE HE DAM LEGAL HAI ATE TUHANU TUHADI AUKAT DIKHAONI HAI’.

Then complainant objected to their behaviour and requested them not to use derogatory language but the present appellant gave slap on the complainant and continued uttering the bad language against her caste. Then present appellant uttered the following language :-

“ KUTTIE JATE SADDE NAAL ABE NU JE PANGA LIYA TAAN DEKH LIN TERA TE TERI KURI DA KI HASHAR

HUNDA HAI CHUP KARKE APNA JULLI TAPRA CHAKDO TE DAFA HO JAO” and while going away both the accused uttered that “TUSIN CHUHRE SADIAN JUTTIAN CHAKE RAHE HO ATE EDAN HE CHAKDE RAHOGE ASIN TAN EDAN HE KARANGE” and ran away from the spot and threatened the complainant and her daughter not to report the matter to the police, otherwise they will be in trouble them as they have connections with the higher ups of the police. Then complainant took her daughter to Civil Hospital where she was treated and it was reported that there was a fracture on the right arm of Paramjit Kaur. Then complainant moved an application dated 5.10.2005 before SSP but no action was initiated and she filed the present complaint u/s 452, 323, 324 IPC read with section 4, 5 and 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.”

Learned JMIC, Bathinda, convicted and sentenced the respondents under Section 452 and 323 IPC vide judgment dated 05.04.2011. An appeal was filed by the present respondents and learned Addl. Sessions Judge, Bathinda, accepted the appeal, mainly on the grounds that firstly there is no independent corroboration that it was Gurmit Singh, who caused injuries as both the witnesses are interested witnesses and there is possibility of false implication. The Court also find that the complainant made improvements in the application as well as in the complaint, which have not been explained by the complainant as to why she skipped the allegations in the application made before the police and later on, a detailed story has been given in the complaint, which did not inspire confidence. It means that the complainant has made material improvements while giving version in the complaint, which has not been given in the application to the police.

Further, learned Addl. Sessions Judge, Bathinda, held that injury on the person of Paramjit Kaur has not been proved by way of MLR as Dr.Paramjit Kaur was not examined. The Court further held that the

injuries have not been explained by the complainant. Only general statement was given but the complainant has not deposed regarding injuries specifically. No enmity or motive has been given in the present case and the complainant has not explained during the evidence as to why Gurmit Singh taunt the poor people. No independent person has been examined to corroborate the version.

The perusal of the reasonings given by learned Addl. Sessions Judge, Bathinda, shows that these are as per evidence and law. In no way, the judgment passed by learned Addl. Sessions Judge, Bathinda, in appeal, can be held as perverse. No illegality has been committed while passing the impugned judgment. Nothing has been pointed as to which material evidence has been misread or which mater evidence has not been considered by the lower Appellate Court. This is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence, like Court of an appeal and this Court is only to see whether any findings are perverse or some material evidence has not been considered.

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

July 12, 2016
Vgulati

(INDERJIT SINGH)
JUDGE