

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRR No.4946 of 2015

Date of decision: February 01, 2016.

Balwinder Kaur

... **Petitioner**

v.

Sarmukh Singh and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Harchand Singh Batth, Advocate for the petitioner.

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

Kuldip Singh, J. (Oral):

Impugned in the present revision is the judgment dated 9.9.2015 passed by learned Additional Sessions Judge, Tarn Taran reversing the judgment of conviction and order of sentence dated 30.1.2014 passed by learned Chief Judicial Magistrate, Tarn Taran and acquitting the accused of the offences punishable under Sections 326, 323 read with Section 34 IPC.

The short facts which are required to be noticed for the disposal of present revision are that the present petitioner filed a criminal complaint under Sections 323, 324, 326, 506, 34 IPC before the lower court wherein it was stated that Rajwant Kaur had taken a shop on rent from the complainant and was not vacating the shop.

On 17.7.2005, the complainant was assaulted in the presence of her

husband Ajit Singh and sister-in-law (husband's brother's wife) Gurmit Kaur. It is stated that Sukhjinder Singh gave a blow from the side of sharp edge of the sword which hit upper lip of the complainant and resultantly, her upper tooth was uprooted. Rajwant Kaur accused gave a stick blow on the right leg of the complainant. The complainant thereafter fell down and Rajwant Kaur kept hitting her with sticks. The other accused kept abetting the co-accused to commit the crime.

On the basis of the evidence produced by the complainant, the accused were convicted for commission of offences punishable under Sections 326, 323 read with Section 34 IPC and accordingly sentenced to various sentences which were set aside by the first appellate court.

I have heard counsel for the appellant.

It is necessary to reproduce the injuries, as stated in the judgment of the lower court:-

- “1. An incised wound of size 2.5 x 1.0 cm on upper lip just below right nostril. Underlying right middle incisor tooth was missing. Socket was swollen empty and lacerated. Reddish blood clot was present in the socket. Ora-dental hygiene was poor.
2. A bruise of the size 5 x 2.5 cm in the left arm infra-scapula region. Reddish brown in colour, parallel to vertebral column, 5 cm from vertebral column.
3. A bruise of the size of 4 x 2.0 cm on medial aspect of right leg, 9 cm from knee joint. Reddish brown in colour.”

Injury No.1 is stated to have been given by Sukhjinder

Singh with Sword. I am of the view that the injury which is below nostril, cannot be given with sword as sword has a long blade. It is claimed by the complainant that right middle incisor tooth was uprooted. As per the MLR, the incisor tooth was uprooted, empty and lacerated. The distance of the incisor is little away from the injury below the nostril. It is not possible that with a long blade of the sword, injury No.1 will be caused and will result in uprooting of the right middle incisor. Therefore, injury No.1 is not corroborated by the ocular testimony. Other two injuries are bruises.

There is enmity between the parties as Rajwant Kaur not vacating the shop given to her on rent by the complainant. Thus, the possibility of injuries being self-suffered or with friendly hand, cannot be ruled out. In this case, the police had registered the FIR and later on, the version of the complainant was found to be false and consequently the accused were not challaned.

Learned learned Additional Sessions Judge, Tarn Taran has passed a well reasoned judgment. When the ocular testimony is not corroborated by medical evidence, the accused were entitled to acquittal. There is no illegality in the judgment.

Dismissed.

February 01, 2016.
kadyan

[Kuldip Singh]
Judge