

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

**Criminal Revision No.1326 of 2008**

Date of Decision : May 15, 2017

Somwati

....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN**

Present : Mr. Surender Saini, Advocate  
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

Mr. Parveen Sharma, Advocate for  
Mr. Arvind Singh, Advocate  
for respondents No.2 and 3.

**T.P.S. MANN, J.**

Satyawan and his wife Smt. Kamla Devi, who are respondents No.2 and 3 herein, were tried for committing the offences punishable under Sections 324/326/34 IPC. Vide judgment and order dated 20/22.1.2007, learned Judicial Magistrate 1<sup>st</sup> Class, Karnal convicted them under Sections 324/34 IPC and sentenced them to undergo rigorous imprisonment for one year each. They were also convicted under Sections 326/34 IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- each and in default of payment of fine, to undergo simple imprisonment for three months. Both the sentences were ordered to run concurrently.

Aggrieved of their conviction and sentence, respondents No.2 and 3 filed an appeal. Vide judgment dated 5.3.2008, learned Additional Sessions Judge, Karnal after holding that the prosecution had not been able to connect them with the said offences by leading cogent and reliable evidence, extended the benefit of doubt to the accused/respondents and accordingly, acquitted them of the charges framed against them. The said judgment is under challenge in the present revision preferred by Somwati, wife of injured Ramesh Kumar.

According to the prosecution, injured Ramesh Kumar was resident of village Padha and an agriculturist by profession. On 30.1.1998 at about 5.00/6.00 p.m., he, alongwith his wife Somwati, was putting loose soil on the roof of their house. In the meantime, accused Satyawar and Kamla Devi came there and questioned the injured as to why he had got recovered liquor belonging to them. The explanation furnished by injured did not satisfy the accused, who started hurling abuses upon him and his wife. In the meantime, Prithvi Singh, father of the accused also came at the spot and started abusing the injured and his wife, besides, threatening to teach them a lesson. Satyawar accused took out a Dah from his dub and inflicted a blow with the same on the right arm of the injured. Kamla Devi was having Daranti and inflicted a blow with the same on his left hand. Satyawar and Kamla Devi caused more injuries to the injured. As a result, the injured fell down on the ground. The hue and cry raised by the

complainant party attracted Bhim Singh son of Sarup Singh to the spot who rescued the complainant and his wife from the clutches of the accused. Both the accused, alongwith Prithvi Singh, since dead, decamped from the spot while hurling abuses and extending threats.

It may not be out of place to mention here that during the pendency of the trial and before he could be examined by the prosecution as a witness, injured Ramesh died. The prosecution examined the petitioner, namely, Somwati as PW5 in order to prove its case. Bhim Singh, who was attracted to the spot on hearing the hue and cry was cited by the prosecution as its witness but he did not come present to depose in favour of the prosecution and against the accused. One another person, namely Balwinder Singh, who had also come to the spot was not cited by the prosecution as a witness. Thus, the prosecution case regarding the ocular account of the occurrence is available on the record by way of testimony of PW5 Somwati, the present petitioner. Though PW5 Somwati was shown to be present at the spot at the time of the occurrence but she was not made the target of the attack as is clear from the FIR Ex.PW1/A. Further, while deposing as PW5 Somwati stated that Prithvi Singh had given a push to her and she had fallen on the ground yet the prosecution made no attempt to get her medically examined. Possibility of her not being present at the time of the occurrence cannot be, thus, ruled out. Further, there is no corroboration to the testimony of PW5 Somwati and being a

solitary and an interested witness, no implicit reliance can be placed upon her testimony.

Head Constable Suraj Bhan, who had recorded the statement of the complainant and, thereafter, investigated the case, was not examined by the prosecution in support of its case and, that too, despite obtaining ample opportunities. The case remained pending before the learned trial Court for more than eight years. Even the site plan could not be formally proved by the prosecution. The weapons used by the accused were also not produced and, therefore, it is difficult to establish that the injuries suffered by injured Ramesh Kumar were the result of the use of weapons by the accused.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the learned lower appellate Court.

The revision is without any merit and, therefore, dismissed.

**( T.P.S. MANN )**  
**JUDGE**

**May 15, 2017**  
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Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO