

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

Crl. Misc. M-34693 of 2017 (O&M)
Date of Decision: September 18, 2017

Poonam

...Petitioner

Versus

Mohar Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravi Kant, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 12.05.2017 passed by the Additional Sessions Judge, Faridabad and order dated 02.03.2015 passed by the Judicial Magistrate Ist Class, Faridabad whereby, the criminal compliant filed by the petitioner bearing No.RBT 190 dated 23.04.2008/17.04.2012, under Sections 123, 124, 366, 506, 34 of Indian Penal Code, titled as '*Poonam vs. Mohar Singh and another*', has been dismissed.

In brief, the facts are that the petitioner herein filed the aforesaid criminal complaint against the respondents with the allegations that in the month of September, 2007, the petitioner had gone to the Police Post Palla to lodge a complaint regarding a missing girl, from where Raju, brother of the missing girl and other persons including the petitioner took

the police to the house of Naushad, where the said missing girl was found. The petitioner was pointed out by respondent No.1, while saying to Naushad “she brought all to police post”. Respondent No.1 threatened the petitioner to take revenge of it and thereafter, the petitioner was taken to police station, where respondents No.1 and 2 and a lady constable gave merciless beating to the petitioner in the lock up. The petitioner made complaint to the superior police officers, but no action was taken.

In her preliminary evidence, the petitioner examined herself as CW-1 and Gopal was examined as CW-2. On the basis of preliminary evidence produced, the respondents herein were summoned by order dated 27.10.2014 to face trial for the commission of offence punishable under Sections 323 read with Section 34 of Indian Penal Code.

In pre-charge evidence, again aforesaid two witnesses were examined.

By the impugned order dated 02.03.2015 learned Judicial Magistrate Ist Class, Faridabad, while holding that no case has been made out, discharged the respondents.

Being not satisfied, the petitioner herein filed a revision petition before the lower Revisional Court, which was also dismissed by judgment dated 12.05.2017.

Being aggrieved against the verdict of both the courts below, the instant petition has been filed.

Counsel for the petitioner contends that both the courts below have failed to appreciate that the petitioner has duly proved the allegations against the respondents. It is argued that the respondents were summoned

only under Sections 323/34 of Indian Penal Code, as such, when the allegations of man-handling and simple injuries are there, no MLR was required. It is also contended that both the courts below have failed to take the facts of the case into consideration in true perspective and wrongly dismissed the complaint and revision of the petitioner.

I have heard counsel for the petitioner, apart from perusing the record.

While discharging the respondents by order dated 02.03.2015, the learned Judicial Magistrate Ist Class, Faridabad, observed as under;-

“9. From above, it comes up that to prove the allegations against the accused persons in the present complaint, complainant has examined only two witnesses in her pre-charge evidence. Smt. Poonam, complainant appeared as CW-1 and her son as CW2. Gopal, who is son of complainant, being an interested witness has admitted the case of complainant. However, in this present case, firstly, the complainant stated in her complaint that Jeetu, Prema and Babli beat her but now at this stage in her pre-charge, complainant has given up Jeetu, Prema and Babli. Once, a person is specifically attributed to a charge of beating and then in further evidence, the same witness resiles from the earlier statements, this conduct has to be taken into consideration and this aspect goes against the complainant. It casts doubt over the entire story as projected by the complainant.

10. Further as far as Section 323 IPC is concerned, it is the duty of the complainant to prove the injuries. Such injuries are necessary for bringing into play Section 323 IPC. Though on the file the complainant

has brought the MLR, but the complainant has not examined the doctor, who could corroborate the version of the complainant or prove the injuries inflicted upon the complainant. This major flaw in bringing in cogent evidence goes against the complainant. Since the doctor has not been examined, MLR stands not proved. Thus, no ingredients of offence punishable under Section 323 IPC read with section 34 IPC are made out.”

The order passed by learned Judicial Magistrate Ist Class, Faridabad, was affirmed in revision by the lower Revisional Court and the revision filed by the petitioner was dismissed.

Perusal of the record goes on to show that the instant complaint was initially filed by the petitioner against six persons as accused namely Mohar Singh, Ravinder Singh, Jito, Prema, Babli and Banto, however, later on she had given up said Jito and Bali etc. Further in the list of witnesses, the petitioner had cited eight witness including herself, however, except herself and her son, she did not examine any other witness in support of her case. Furthermore, the petitioner had only examined her son Gopal in support of her case, who claimed that at the time of occurrence, he was also present and the respondents had also inflicted injuries upon him. Strangely in her complaint, the petitioner had nowhere disclosed that her son Gopal had witnessed the occurrence. This court is of the considered view that only a bald statement has been made by the petitioner, which is not supported by any documentary evidence or independent witness and the same is sufficient to cast doubt upon the entire story put forth by the petitioner.

Counsel for the petitioner has miserably failed to point out any infirmity in the impugned orders, so passed by the courts below.

In view of the above, the petition in hand is hereby dismissed,
being devoid of any merits.

September 18, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No