

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

**CRR No.1341 of 2014 (O&M)
Date of Decision: January 18, 2017**

Chameli Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Johan Kumar, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

The Court of learned Chief Judicial Magistrate, Jhajjar had tried Mahabir, Narsi, Lado and Narender @ Nitu private respondents No.2 to 5 in case bearing FIR No.646 dated 03.11.2008 under Sections 323,452,506 and 34 IPC pertaining to Police Station, Jhajjar and through judgment dated 02.12.2013 had held all the accused guilty for commission of offence under Section 323 read with Section 34 IPC and sentenced them but released them on probation subject to deposit of Rs.1000/- each as cost of the proceedings out of which Rs.4000/- was ordered to be released to the complainant as compensation. It is against this the complainant Chameli Devi had filed appeal in the Court of learned Additional Sessions Judge, Jhajjar, who in appeal through judgment dated 27.01.2014 dismissed the same and that is how the complainant is before this Court in the instant revision prevailing upon this Court to exercise its powers under Sections

401 and 402 Cr.P.C.

Heard learned counsel for the petitioner and perused the records of the case. The two courts below have well appreciated the fact that in her complaint Ex.PW2/A the complainant had nowhere detailed the occurrence having taken place in her house and it is subsequently at belated stage allegations of trespassing have cropped up and which has been well detailed by the learned trial Court while drawing the conclusions which have been upheld vide impugned findings of the learned Court of appeal and that in her initial statement she has specifically stated that the accused assaulted her while she was standing in the street and is even depicted in the site plan Ex.PW4/C but the eye-witness PW3 Krishna has never supported this aspect in her statement made to the Police that the complainant was dragged out of her house by the accused, thus, a doubt has cropped up in the mind of the trial Court after appreciation of the evidence and, thus, has rightly held non-commission of offence under Section 452 IPC.

The Code of Criminal Procedure has brought about in it provision by way of Section 360 Cr.P.C whereby, powers have been given to the Courts to release a person on probation and the very wording makes it emphatically clear that it is in respect of offences which are not of very heinous nature. In the present case the conviction is for simple injury under Section 323 IPC and to assuage the feeling of wrong done the Court has already imposed cost upon the convicts out of which adequate compensation has been awarded to the complainant. The very purpose of taking a lenient view in such small offences is pure and pure exercise of inherent judicial discretion by the Court and can by no means termed to be

illegal or perverse.

Thus, in the totality there has been true and correct appreciation of evidence and the findings arrived at by the Court below certainly needs to be upheld. Thus, the revision petition being devoid of any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 18, 2017
aarti

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No