

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

CRR No.311 of 2015.  
Decided on:-01.11.2017.

Sushila Chaudhary.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.**

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Present:- Mr. Sunil Saharan, Advocate  
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. N.S. Shekhawat, Advocate  
for respondent No.2.

**HARI PAL VERMA, J.**

The petitioner-complainant has filed the present revision petition against the judgment dated 09.12.2014 passed by learned Additional Sessions Judge, Hisar whereby her appeal against the judgment dated 24.09.2013 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Hisar acquitting the respondent No.2-accused, was dismissed.

Briefly stated, FIR No.78 dated 22.01.2010 under Sections 294, 323 and 506 IPC was registered against the respondent No.2 Surender Dutt Kaushik at Police Station Sadar Hisar, District Hisar at the behest of the petitioner-complainant, who was working as Principal, Government Senior Secondary School, Neoli Kalan, Hisar. As per the FIR, on 22.01.2010 at about 10.00 A.M., when the petitioner-complainant was working in her office,

the respondent No.2-accused came to her office in angry mood. He started abusing the complainant by using vulgar language. He attacked the petitioner by pulling her hair and pushing her down on the floor. He also gave fist and kick blows on the chest, stomach and head of the petitioner. However, when Kuldeep, who was working as class-IV employee, tried to intervene, the accused pushed him away as well. When the petitioner had come out in the verandah, the accused again started beating her by putting a shawl over her face. She was given beatings by more than one person.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copy of report along with other documents was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case against the respondent No.2-accused, he was charge-sheeted under Sections 294, 354, 323 and 506 IPC, to which he did not plead guilty and claimed trial.

In support of its case, the prosecution examined as many as 8 witnesses i.e. Kuldeep as PW1, Amar Singh as PW2, Amit Parkash as PW3, Dr. Tejpal Sharma as PW4, Dr. Prem Singh as PW5, petitioner-complainant Sushila Chaudhary as PW6, Inspector Naresh Kumar as PW7 and Suresh Kumar as PW8. Thereafter, statement of respondent No.2-accused was recorded under Section 313 Cr.PC wherein he denied all the allegations levelled against him and pleaded innocence. In his defence, he has examined Amit as DW1 and Subhash as DW2.

Learned trial Court, vide judgment dated 24.09.2013 had acquitted respondent No.2-accused of the charge framed against him as PW1 Kuldeep had denied that on 22.01.2010, an altercation ever took place outside

the office of the Principal. In his cross-examination by the defence counsel, he admitted that outside the office of the Principal, some girls belonging to scheduled caste category were raising slogans against the Principal alleging that the Principal had made caste remarks against them. Similarly, PW2 Amar Singh and PW3 Amit Parkash, who were posted as teachers in the school on 22.01.2010, have denied the incident, thus did not support the case of the prosecution.

PW5 Dr. Prem Singh, Medical Officer, Civil Hospital, Hisar submitted an affidavit Ex.PW5/A along with medico-legal report of the petitioner-complainant. In his cross-examination, this witness has stated that injuries No.1 to 3, 6 and 7 were superficial in nature and he cannot comment on injuries No.4 and 5. He has further stated that duration of injuries No.4 and 5 could not be exactly fixed in this case and possibility of receipt of injuries mentioned in the MLR cannot be ruled out in scuffling with some crowd and beating by a mob with slap etc. after covering the face.

Even the petitioner-complainant, who appeared in the witness box as PW6, has admitted that neither she informed the police about the incident nor to her senior officer i.e. District Education Officer. However, she has denied that she has ever made any caste remarks.

DW1 Amit Kumar has deposed that the petitioner has falsely implicated the accused in this case because the behaviour of the petitioner was not cordial towards the students of the school and it is due to this reason, she was transferred on administrative ground.

Learned trial Court has found that the injuries reflected on the person of the petitioner-complainant are superficial in nature and can be

sustained due to scuffling with the crowd and beatings given by mob etc. Even the complainant got herself medico-legally examined after a delay of six hours. The matter was neither reported to the police nor to the authorities.

Against acquittal of the respondent No.2-accused, the petitioner preferred an appeal before the Court of Session, but the said appeal was dismissed by learned Additional Sessions Judge, Hisar vide judgment dated 09.12.2014.

On this account, the petitioner has filed the present revision petition.

Learned counsel for the petitioner-complainant has argued that the Courts below have committed legal error in not appreciating the evidence produced by the petitioner. She has appeared in the witness box as PW6 and narrated the entire incident. PW5 Dr. Prem Singh has also corroborated the injuries suffered by her. The petitioner has specifically deposed about the role played by the respondent No.2-accused while committing the offence. In fact, the co-teachers did not support the prosecution version and the Courts below have wrongly relied upon the cross-examination of hostile witnesses.

He has further contended that the offence under Section 354 IPC is such that only the victim can ascertain the nature of person and the manner in which the person had assaulted or touched or made the obscenity faced by her and nobody can else determine this fact. He has further contended that the impugned judgments passed by the Courts below are liable to be set aside and respondent No.2 is liable to be convicted and sentenced for the offence committed by him.

On the other hand, learned counsel for respondent No.2 has argued that no interference is warranted in the well-reasoned judgments passed by the Courts below. The judgments are based on evidence as led by the parties.

I have heard learned counsel for the parties.

At the outset, it would be relevant to mention here that there are concurrent findings given by the Courts below in favour of the respondent No.2. The scope of revisional jurisdiction is vested with limited powers. Hon'ble Supreme Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:

*“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”*

In ***Venkatesan Versus Rani and another 2013(4) RCR (Criminal) 919***, the Apex Court has held that while examining an order of acquittal, the revisional jurisdiction of the High Courts is extremely limited and the same should be exercised only in case where the trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence. The language of Section 401 Cr.P.C. makes it amply clear that there is no power vested in the High Court to

convert a finding of acquittal into one of conviction. The relevant paragraph No.7 of the said judgment reads as under:

*“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code. Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is no power vested in the High Court to convert a finding of acquittal into one of conviction.”*

Moreover, perusal of the record reveals that there is a variation in the statement of petitioner-complainant herself. While appearing in the witness box as PW6, she has deposed that on 22.01.2010, the incident had occurred at 10.00 AM when she was present in her office and the accused came there and misbehaved with her on the pretext of not noting the order dated 21.01.2010. The accused pulled her down from her chair and gave fist and kick blows on her chest, stomach and head. She has also deposed that she was given beatings by a number of people by putting a shawl on her face. The incident was witnessed by PW1 Kuldeep. Interestingly, said Kuldeep has not supported the version of the prosecution and, therefore, he was declared as hostile. The other co-teachers, namely, PW2 Amar Singh and PW3 Amit

Parkash have also not supported the prosecution version, rather, they have specifically stated that no altercation took place between the petitioner and the accused.

It is settled law that the prosecution is required to prove its case beyond all probabilities. The accused is considered to be innocent unless proved guilty by the prosecution by leading cogent evidence. However, in the present case, the petitioner-complainant has not been able to prove his case against the respondent beyond shadow of reasonable doubt. The petitioner-complainant has also not been able to prove that in what manner, impugned judgments passed by the Courts below suffer from illegality, irregularity or perversity which may warrant interference of this Court by invoking its revisional jurisdiction.

Accordingly, the judgment of acquittal dated 24.09.2013 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Hisar as well as judgment dated 09.12.2014 passed by learned Additional Sessions Judge, Hisar are affirmed and the present revision petition, being devoid of any merit, is dismissed.

**November 01, 2017**

Yag Dutt

**(HARI PAL VERMA)  
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No