

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

**CRR-4881-2016 (O&M)
Date of decision: 03.03.2017**

Anchi Devi

... Petitioner

Vs.

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Mohit, Advocate for
Mr. R.A. Sheoran, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J.

The instant revision is directed against the judgment dated 03.10.2016 passed by the learned Sessions Judge, Narnaul and in terms of which the appeal preferred by the present petitioner against the judgment dated 20.10.2015 passed by the Judicial Magistrate 1st Class, Mohindergarh acquitting respondent No.2 of the charges under Sections 294/506 IPC has been dismissed.

Brief facts of the case are that on 19.03.2014, Smt. Anchi Devi/present petitioner submitted an application to the police stating that on 05.03.2014, a telephonic call was received by her on her mobile No.94163 99215 and the caller had threatened to kill her and had hurled abuses and thereafter the caller had also threatened to kill her son. Complainant had asserted that on inquiry, the caller was found to be Dinesh son of Daya Nand. On the basis of the complaint, FIR No.28 dated 19.03.2014, under Sections 294/506 IPC was registered at Police Station Satnali. Statements of witnesses were recorded, call details were obtained and the accused Dinesh

was arrested. After completion of investigation, challan under Section 173 Cr.P.C. was presented against the accused. On finding a prima facie case, he was charge sheeted for commission of offence punishable under Sections 294/506 IPC and to which he pleaded not guilty and claimed trial. Prosecution examined Anchi Devi as PW1, Sandeep as PW2, HC Narender Kumar as PW3, LHC Renu as PW4, Constable Bhupesh as PW5, SI/SHO Mahavir Singh as PW6 and HC Narender Singh as PW7. Statement of the accused under Section 313 Cr.P.C. was recorded wherein he denied all the allegations and claimed himself to be innocent.

On an appraisal of the evidence adduced on record and after hearing counsel for the parties, trial Court given benefit of doubt to the accused and acquitted him of the charges framed. Appeal preferred by the complainant also stands dismissed. Resultantly, the instant revision petition.

Counsel appearing for the petitioner contends that testimonies of 7 prosecution witnesses were consistent and corroborative in nature and duly supported the prosecution version and as such, the trial Court has erred in acquitting the accused. Further argued that the call details pertaining to mobile numbers in question would in itself prove the guilt of the accused, beyond any shadow of doubt.

Having heard counsel for the petitioner at length, this Court is of the considered view that the present revision lacks merit and deserves to be dismissed.

During the course of arguments, it has gone uncontroverted that neither the complainant in her complaint Ex.PW1/A or in her testimony while appearing before the Court as PW1 had stated as regards the precise words uttered by the accused. In her testimony, the complainant/petitioner

herein admitted that she had herself asked as to who the caller was and who disclosed his name as Mahender. Complainant had not stated that she was familiar with the voice of Dinesh/accused or that she had recognized Dinesh from his voice. The Courts below have rightly recorded that the commission of offence under Section 294 IPC is not proved.

Even the delay on the part of the complainant has gone unexplained. The alleged telephonic call was stated to have been made on 05.03.2014, whereas the matter was reported to the police after 14 days of the extension of the alleged threat. Even though an attempt was made by the complainant by stating that she is illiterate and a complaint had been got written on 06.03.2014 by Sh. Bhagwan but such Sh. Bhagwan was not even arrayed in the list of witnesses. On the one hand, complainant took a stand that her complaint was presented to the Police Station by her brother-in-law and without any delay, yet prosecution witness LHC Renu, PW4 had testified that it was only on 19.03.2014 when she was present at Loharu Chowk in connection with patrolling duty that the complainant presented the complaint. Furthermore, the motive for lodging a false complaint also stands exposed as PW4 LHC Renu also disclosed that there were already criminal cases pending between the parties.

Yet another material aspect which would support the judgment of acquittal is that no FSL report was placed on record to reflect upon any comparison with the voice of the accused to that of the one allegedly used in the call details.

Counsel has not shown any perversity or patent infirmity in the judgment of acquittal recorded by the trial Court and which has been affirmed in appeal.

This Court does not find any basis that would warrant interference in the matter in exercise of its revisional jurisdiction.

Petition is dismissed.

03.03.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |