

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

CRR No.534 of 2016 (O&M)
Date of Decision: November 30, 2017

Sumitra

...Petitioner

VERSUS

Billu and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumit Sangwan, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sumitra against Billu and other respondents, challenging the impugned judgment dated 17.12.2013 passed by Judicial Magistrate Ist Class, Charkhi Dadri, vide which the accused-respondents were acquitted of the charges framed against them and also challenging the judgment dated 19.11.2015 passed by learned Addl. Sessions Judge, Bhiwani, vide which the appeal filed by the petitioner was also dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that challan was presented against accused Billu, Jai Parkash, Umed singh, Suresh, Naresh, Rani Devi, Rajesh Devi, Vijay and Sumitra in case FIR No.17 dated 20.01.2006 under Sections

judgment passed by learned JMIC, Charkhi Dadri, are as under:-

“2. The brief facts of the prosecution case are that on 10.01.2006, at about 7.00 P.M., when Sumitra (complainant) came out of the main gate of her house while clearing her house. She saw Naresh accused urinating by the wall of her house. On objection, he started abusing her and on hearing noise complainant's husband Randhir and her son Gaurav came out. The complainant and her family members attacked were by all the accused. Accused Suresh gave a Jelly blow on the head of complainant's son Gaurav. Amar Singh gave a lathi blow on his back. Vijay gave iron rod blow on the left arm of Gaurav. Accused Rajesh gave a Jelly blow on complainant's head. Accused Sumitra gave lathi blow on complainant's right arm. Rani gave lathi blow on complainant's left shoulder. Jai Parkash gave a farsa blow on left palm of complainant's husband Randhir. Billu accused hit a stone blow on the back of complainant's husband. Accused Naresh brought out of farsa from his house and gave a blow on the right hand finger of complainant's son Gaurav. Accused Umed also came there and showed a pistol to them and threatened to kill them. On raising hue and cry Rajbir son of Phool Singh and Anurag son of Dharam Singh came for their rescue. On seeing them, the accused left for their house. Complainant and injured were brought to GH Dadri for treatment. The cause of the alleged incident might be an altercation occurred two days prior to this incident. On the basis of statement of complainant, FIR was registered. Accused were arrested and later released on bail.”

On presentation of challan against the accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 148, 149, 323, 325, 452 and 506 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Sumitra Devi, complainant, PW-6 Ranbir and PW-7 Gaurav, injured. Prosecution also examined PW-2 Dr.Ishwar and PW-3 Dr.S.C.Gupta. PW-4 Om Parkash mainly proved the formal FIR and PW-5 SI Ram Chander deposed that during investigation, accused were arrested and jelly from Suresh, lathi

from Rani and one jelly from Sumitra were recovered and taken into police possession. After closure of the prosecution evidence, the statements of accused under Section 313 Cr.P.C. were recorded. In defence, accused examined DW-1 Jagdish Kumar, DW-2 Beer Singh, DW-3 Dr.S.C.Gupta and DW-4 Dr.Anita Gulia.

Learned JMIC, Charkhi Dadri, on the basis of the evidence, acquitted the accused-respondents vide impugned judgment dated 17.12.2013. Appeals were filed by the petitioner-complainant as well as the State before Court of Session and learned Addl. Sessions Judge, Bhiwani, vide impugned judgment dated 19.11.2015, dismissed both the appeals

Aggrieved from the above-said judgments, present revision has been filed by the petitioner-complainant.

After going through the record, first of all, I find that it is a case of version and cross-version and the accused party had also received injuries. There is no evidence on the record to explain the injuries on the person of accused, which means that prosecution witnesses have concealed the material facts regarding the occurrence as to how it happened. In other words, genesis of the occurrence has been concealed by the prosecution. Non explaining of the injuries on the person of the accused, creates reasonable doubt in the prosecution version.

Secondly, the occurrence took place on 10.01.2006 and the FIR was got registered on 20.01.2006. Learned trial Court held that DDR got recorded by the present petitioner has not been proved as per law, which means that version given by the complainant-petitioner is delayed one.

Further, I find that in the present case, examination of

case, which also creates doubt.

I have gone through the statement of PW-2 Dr.Ishwar, who has deposed only regarding injuries on the person of Randhir in his examination-in-chief. As regarding injuries on the person of Sumitra and Gaurav, he stated that injuries have been mentioned in the MLR. In my view, the doctor should have explained the injuries on the person of Sumitra as well as Gaurav in his examination-in-chief also. The doctor has not filed affidavit in this case regarding his chief examination. Rather, he has deposed in the Court on oath but he has not given the description of injuries in his examination-in-chief, suffered by Gaurav and Sumitra, which is not as per law.

Keeping in view above discussion, I find that the findings given by learned Courts below are correct, as per evidence and law. In no way, the findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the learned Courts below. Nothing has been pointed out as to how the findings are illegal.

Therefore, finding no merit in the present revision petition, the same is dismissed.

November 30, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No