

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.27728 of 2017
and
Criminal Revision No.3102 of 2017

.....

Date of decision:11.12.2017

Amarjit Kaur

...Petitioner

v.

Balkaran Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.27728 of 2017:

For the reasons mentioned in the criminal miscellaneous application, the same is allowed and the delay of 47 days in filing the criminal revision petition is condoned.

Cr. Revision No.3102 of 2017:

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 19.1.2017 passed by learned Sessions Judge, Sri Muktsar Sahib, whereby the appeal filed against the judgment of acquittal dated 27.5.2016 passed by learned Judicial Magistrate Ist Class, Malout, has been dismissed.

From the record, I find that challan in the present case has been presented in FIR No.150 dated 12.10.2010 registered for the offences under Sections 325, 323 and 34 IPC at Police Station City Malout. The brief facts of the case as noted down by the learned Judicial Magistrate Ist Class, Malout, are as under:-

“Briefly averred, the prosecution story is that on receipt of MLR No.JC/70/2010 regarding injured Amarjit Kaur complainant, ASI Paramjit Singh I.O. and HC Karnail Singh 710 reached at Civil Hospital, Malout where the above said injured recorded her statement before the I.O. to the effect that she is resident of the above said address. She has not solemnised her marriage and she resides with her father and brothers. Her father has 15 acres land. This land had been cultivated by Balkaran Singh and Major Singh sons of Mohinder Singh, residents of Abul Khurana on lease, out of which she started cultivating 10 Killas land and Balkaran Singh and Major Singh used to cultivate five acres land forcibly. They did not give any lease money or any share of the crop to them. Her father Harbans Singh and her brother Nachhattar Singh had gone several times for releasing the land, but accused Balkaran Singh and Major Singh did not accede to their request. On 2.10.2010 at about 7 P.M. her father Harbans Singh, her brother Nachhattar Singh were present in their house. Balkaran Singh and Major Singh came in front of their

house in the street and started abusing them. She came out in the street on hearing the Raula. Then Balkaran Singh and Major Singh armed with Dangs had been abusing and she came forward to restrain them. Then, Major Singh raised Lalkara that give her lesson for releasing the land and Balkaran Singh gave Dang blow from its front side on her face and hit her upper tooth, which had broken and the blood started oozing from her mouth. On hearing Raula, her father and her brother came out and both the accused ran away from the spot. Her brother and her father started to take care of her. Her father is patient of blood pressure and his blood pressure shot up. Her brother started taking care of his father. She came to the Civil Hospital alongwith boy of the neighbour. Motive behind the occurrence is that Balkaran Singh and Major Singh had taken possession of their five Killas land. When they asked them to vacate the said land, due to this grudge they caused injuries to them. The I.O. read over the above statement to the complainant who signed the same in Punjabi and the I.O. attested the same. In the MLR issued by the doctor one blunt injury has been recorded and was subject to after dental Surgeon opinion and the I.O. found the offence u/ss 323/34 IPC and recorded Rapat No.7 dated 03.10.2010. On receipt of X-ray report of the injured injury No.1 was declared grievous on receipt of X-ray report. The FIR under the above said Sections

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was registered and further investigation in this case was entrusted to ASI Paramjit Singh. The I.O. reached at the place of occurrence and arrested the accused Balkaran Singh and Major Singh on 27.10.2010 vide grounds of arrest memo. He prepared rough site plan and recorded the statements of the witnesses u/s 161 Cr.P.C. After completion of the investigation, challan against the above said accused was presented in the Court.”

The learned Judicial Magistrate Ist Class, Malout, after appreciating the evidence acquitted the accused. Aggrieved from the judgment, an appeal was filed by the complainant before the learned Sessions Judge, Sri Muktsar Sahib, which was also dismissed. Aggrieved against both judgments, the present criminal revision petition has been filed.

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

At the time of arguments, nothing has been pointed by the learned counsel for the petitioner as to how the findings given by the Courts below are perverse i.e. against the evidence or law. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by the Courts below are illegal. A perusal of the record shows that the findings given by the Courts below are correct as per evidence and law. Both the Courts below have given concurrent findings holding the accused not guilty.

As perusal of the record shows that as per the prosecution version a Dang blow had been given on the mouth of the injured-complainant Amarjit Kaur, but in the MLR there is no injury on the lip or any portion of the mouth. As per the X-ray, the upper jaw left central incisor tooth was missing from the socket. The socket bleeds on touch and painful. The occurrence took place on 2.10.2010 and it has been stated that DDR was registered on 3.10.2010 and the FIR has been registered on 12.10.2010. The Courts also discussed the discrepancies in the statement of the complainant as she stated in cross-examination that her statement was recorded in the hospital after three days of the occurrence whereas as per the document on record it revealed that her statement has been recorded on 3.10.2010 and the occurrence took place on 2.10.2010. The Courts below also held that the discrepancy is also regarding the time. Her statement that the Police visited her house after two days of the occurrence is also contradictory. Dr. Jagdeep Chawla, Medical Officer, C.H., Malout admitted in his cross-examination that there was no injury on the lip. There is no swelling near the lip. He further admitted that if a person caused injury with stick blow on the mouth, there will be swelling around the mouth. Dr. Pawan Kumar, who gave the dental opinion, admitted that there is no injury mentioned in the MLR on the lips of the complainant. The Courts below discussing all these facts have rightly acquitted the accused. The evidence has been appreciated properly and in right perspective. The findings are correct as per evidence and law and do not require any interference from this Court and the same are upheld.

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

December 11, 2017.

(Inderjit Singh)
Judge

hsp

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