

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

Crl. Misc. No.A-1663-MA of 2014(O&M)

Date of Decision: 21.09.2018

Sunderwati

.. Applicant

Vs.

Balwan Singh & Ors.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Pankaj Maini, Advocate
for the applicant.**

None for respondent No.1.

**Mr. Subhash Godara, Advocate
for respondents No.2 to 4.**

ANITA CHAUDHRY, J.

The applicant is seeking leave to challenge the judgment dated 15.09.2014 by virtue of which the trial court has acquitted respondents No.1 to 4 in the criminal complaint filed by her.

A complaint was filed by the applicant arraigning respondents No.1 to 4 as accused therein. The allegations were that on 09.09.2009 all the respondents, who were posted in Labour Department entered the factory premises where she along with other ladies, namely, Geeta, Veena, Rubi and Sangeeta were present. The factory otherwise was closed that date. The

respondents came under the influence of liquor and misbehaved with them. They were saved by Raj Kumar and Azad Singh chowkidars. The matter was reported to the police, but no action was taken. The police booked the factory owner in a case FIR No. 888 dated 09.09.2009, under Sections 506, 332, 353, 186, 427, 148 and 149 IPC. On 14.09.2009 the complaint was filed in the Court.

In preliminary evidence, the complainant stepped in the witness box as PW1 and examined Rubi as PW2.

The respondents were summoned. On the basis of pre-charge evidence, they were charge-sheeted under Sections 323 and 354 read with Section 34 IPC. The respondents adjured the trial in their statements under Section 313 Cr.P.C. in defence, Dr. Subhash who medically examined the respondents Gangadutt, Dharampal and Satyawan was produced as DW1 and the Ahlmad of the Court was examined as DW2 who proved the report under Section 173 Cr.P.C. filed in FIR No. 888 dated 09.09.2009.

On conclusion of trial, the court below observed that the prosecution had failed to prove its case against the accused beyond shadow of reasonable doubt and recorded their acquittal.

Dis-satisfied with the same, the complainant has filed the instant application seeking leave to question the legality and propriety of the judgment dated 15.09.2014.

Record of the lower Court was called. It is evident that in relation to the occurrence dated 09.09.2009 the factory owner and his accomplice were booked in FIR No.888 dated 09.09.2009 for assaulting the respondents causing obstructions in discharging their duties as public servant. The matter was reported by the police and respondents No.2 to 4

were medically examined by DW.1 Dr. Subhash. He specifically admitted in his cross-examination that no smell of alcohol was coming. This belied the story propounded by the complainant that the respondents were in drunken condition. There is a complaint, Ex.DB on record which was made by the owner of the factory on the same day i.e. 09.09.2009. The applicant had also signed it and therein it was not mentioned that any attempt was made to outrage the modesty of ladies. It was only stated that a quarrel had taken place. Had the occurrence been taken in the manner as stated by the complainant, this fact would have been mentioned in the complaint. On enquiry, the complaint was also found to be false by the police. The complainant failed to get herself medically examined. PW Rubi never signed the complaint Ex.DB. Her presence at the spot was doubted. It appears that the complainant was used as a tool and the complaint was filed as a counter-blast, by distorting the facts when they realized that the FIR was registered against the owner and others. It was claimed that number of persons had gathered at the spot, but none from them was examined by the complainant. One Geeta who signed the complaint Ex.DB was not produced by the complainant for the reasons best known to her. It was incumbent upon the complainant to produce strong evidence in the form of independent witness, especially when their version given to the police was found incorrect and FIR was registered against the factory owner and others for assaulting the respondents who were discharging their duties as public servants.

The trial Court had elaborately discussed the facts and evidence and had given reasons to disbelieve the complainant. The findings returned are based on correct appreciation of evidence. The High Court ought not to

interfere with the order of acquittal unless the judgment of acquittal is perverse or highly unreasonable as held in **Vimal Singh Vs. Khuman Singh, 1998(4) RCR(Crl.) 423**. In the instant case, the judgment of acquittal rendered by the Court below is neither perverse nor unreasonable and it cannot be said that the court based its findings on irrelevant or inadmissible evidence. In the circumstances, the application for leave to appeal is dismissed.

September 21, 2018
Jiten
Whether speaking/ reasoned

Whether reportable

(ANITA CHAUDHRY)
JUDGE
Yes/ No

Yes/ No