

In the High Court of Punjab & Haryana at Chandigarh.

CRM-A-650-MA-2015 (O&M)

Date of decision: 04.04.2018

Angrejo Devi

..... Petitioner.

VS.

Dalbir Singh and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Parminder Singh, Advocate
for the applicant.

Mr. M.S.Khillon, Advocate
for the respondents.

ARVIND SINGH SANGWAN,J.(ORAL)

Prayer in this application is for setting aside the judgment dated 09.10.2014 vide which the respondents-accused were acquitted by the trial Court, in a criminal complaint filed by the applicant.

Brief facts of the case are that on 23.02.2010, the applicant-complainant was returning home from her fields and when she reached in front of house of the accused persons, the tyre of her bull cart struck into the drain and when she was trying to pull out the same, accused No.1 came and started abusing and gave fist blows on her mouth, due to which her front tooth was broken. In the meantime, accused No. 2 and 3 also came at the spot, armed with sticks and held the complainant from her hair and gave beatings to her with the sticks on her legs and back, due to which the complainant fell down. On raising voice, Ram Mehar and Devi Singh rescued her and, thereafter, the accused persons ran away. The applicant was medico legally examined on 23.02.2010 and despite giving the

complaint to the

police, no action was taken. It was further stated that the FIR No. 134 dated 14.07.2010 was registered against the accused persons but later on the same was cancelled.

In preliminary evidence, the complainant examined herself as CW1, Devi Singh as CW2, Ram Mehar as CW3 and Dr. Anoop Garg as CW4. Thereafter, the respondents-accused persons were summoned vide order dated 13.07.2012 to face the trial for offences punishable under Sections 323, 324 and 325 IPC read with Section 34 IPC.

In pre-charge evidence, the complainant examined four witnesses.

The complainant as well as the two witnesses i.e. Ram Mehar and Devi Singh have supported the version given in the complaint. Dr. Anoop Garg, produced on record MLR as Ex. CW3/A. Thereafter, the trial Court framed charges against the accused persons on 17.12.2012, to which accused did not plead guilty and claimed trial.

In the post-charge evidence, the complainant made a statement that the evidence already led by her at pre-charge stage be read in the post-charge evidence.

Thereafter, the statements of accused under Section 313 Cr.P.C. were recorded. In defence, the respondents-accused persons recalled CW1- Angrejo Devi and Ram Mehar. The accused also examined one Parmal Singh as DW1 who stated that on 23.02.2010 there was an altercation between Deva Singh and Dalbir and, thereafter, they sent back of their house and the alleged occurrence as stated by complainant has never taken place. Similar statement was made by Ram Nath. Thereafter, the trial Court,

vide impugned judgment dated 09.10.2014 acquitted the respondents-accused persons.

Hence, the present application.

Counsel for the applicant has submitted that it is proved from the statement of complainant and the two eye witnesses that the accused in conspiracy with each other caused injuries to her. It is further stated that as per MLR (Ex. CW3/A), which is duly proved by Dr. Anoop Garg, the injuries sustained by the applicant are proved. Counsel for the applicant has referred to the injuries as mentioned in the MLR are reproduced as under:-

1. Lower both medial and left lateral inciser teeth were missing from gum and fresh bleeding was present from corresponding gum.
2. Diffuse swelling on both the lips with slight laceration on inner aspect at the middle.
3. 7cm X 2cm contusion on left forearm at middle.
4. 5cm X 2cm contusion on left upper arm at middle lateral aspect.
5. 5cm X 2cm contusion on right leg on lateral aspect at middle.

It is, thus, submitted that the trial Court has wrongly acquitted the respondents.

In reply, counsel for the respondents has submitted that the complaint has been filed after delay of 01 year and 08 months and there is no explanation for the same. It is further submitted that no document has been produced on record to prove that the applicant has ever given any complaint to the police authorities. It is further submitted that the injuries sustained by the applicant are on account of falling from the bull cart as she herself has stated so in her deposition.

After hearing learned counsel for the parties and perusing the Lower Court Record, I find no merit in the application.

Admittedly the occurrence took place on 23.02.2010 whereas the present complaint has been filed on 18.10.2010 i.e. after a lapse of more than 1 year and 8 months and no explanation is given in the complaint in this regard.

Though the complainant has stated in the complaint that she has given complaint to the police authorities but no action was taken, however, no such complaint has been produced on record to prove that in the intervening period the complainant has ever lodged any complaint with the police authorities.

The trial Court has recorded a finding that if the story put forward by the complainant is taken to be correct, the offence under Section 325 IPC is not proved as it is the own case of the complainant that she has fallen from the bull cart and, therefore, the teeth were not broken because of the impact of fist blow.

The trial Court also recorded a finding that Dr. Anoop Garg has advised dental surgeon opinion qua injury No.1 to ascertain the nature of injury but no dental opinion was taken by the complainant. It is own case of the complainant that earlier FIR was registered against the accused persons qua the same incident but the police has submitted a cancellation report and, therefore, there was a delay in filing the complaint. However, no cancellation report has been produced on record and, therefore, the plea taken by the complainant is not proved on record.

The trial Court has also recorded a finding that the accused have produced on record copy of FIR (Ex.DW3/A) registered against

complainant's party showing the incident dated 23.02.2010, which itself makes the story of the complainant given in the present case as improbable.

The trial Court has further recorded a finding that the manner of causing injuries with the help of sticks or *lathi* is not corroborated with the injuries mentioned in MLR because except injury No.1 the rest of the injuries are shown as contusions on legs and arms. The complainant could not prove any document on record that after the incident, she remained admitted in the hospital as stated in the complaint.

Finding no illegality or infirmity with the findings recorded by the trial Court that the present complaint has been filed as a counter blast to the FIR (Ex.DW3/A) which was got registered by the accused persons against the husband and sons of complainant and in view of unexplained delay of 1 year and 8 months, the present application is dismissed.

04.04.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No