

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

Crl. Misc. M- 18314 of 2018 (O&M)  
Date of Decision: 4.12.2018

Smt. Shakuntla

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Amandeep Rana, Advocate  
for the petitioner.

**JAISHREE THAKUR, J.**

This is a petition that has been filed under Section 482 of the Code of Criminal Procedure for setting aside the impugned order dated 23.9.2016 passed by the trial court, Gurugram, whereby the complaint filed by the petitioner under Sections 323, 354-B, 506 and 120-B IPC, against respondents 2 to 6 stands dismissed and the judgment dated 10.1.2018 passed by the Additional Sessions Judge, Gurugram, whereby the order passed by the Judicial Magistrate 1<sup>st</sup> Class, Gurugram dated 23.9.2016 has been upheld.

In brief, the facts are that on 12.8.2014 at about 5.30 p.m. when the petitioner and her husband were sitting outside their house under a tree then Dharambir along with his son Yash and daughter Varuna—respondents 2, 3 and 4 respectively came there and started abusing them and threatened them that in case they did not withdraw the case filed against

them, they would be treated with dire consequences. In the meanwhile, Savitri wife of Dharambir and Anju daughter of Krishan—respondents 5 and 6 respectively came on the spot and they also started fighting with the petitioner and her husband. Dharambir gave fist blow on the thigh and stomach of the petitioner and also tore her clothes. Varuna and Anju caught hold of the petitioner, but when husband of the petitioner tried to save her, then Yash and Savitri gave fist blows to her husband and also threatened to kill both of them. The petitioner went to Police Station at Gurugram, but the police did not take any action and ultimately, the petitioner filed a private complaint against respondents 2 to 6 before the Illaqa Magistrate, Gurugram. The petitioner in her preliminary evidence, herself stepped into the witness box as CW2 and got examined Constable Pardeep Kumar as CW1, Balwan Singh as CW3 and HC Dinesh Kumar as CW4 and also produced on the record documents Ex. CW2/A to Ex. CW2/E and CW1/A. However, the trial court without considering the evidence in its correct perspective, dismissed the complaint, vide order dated 23.9.2016 (Annexure P/1).

Against the order dated 23.9.2016, the petitioner filed a revision petition before the Additional Sessions Judge, Gurugram, but the same was dismissed.

Learned counsel appearing on behalf of the petitioner contends that there is clinching evidence available against the accused person but both the courts below have ignored the same while dismissing the complaint. It is argued that undue weightage has been given to the report that has been given under Section 202 of the Code of Criminal

Procedure and that the same has been prepared by the accused in collusion with the police officials. The allegations, as set out in the complaint, are that the petitioner was being harassed at the hands of Dharambir along with others. It has been contended that the petitioner was subjected to beatings by all the persons, who were five in number and that she and her husband had received multiple injuries. In support of the allegations, the petitioner herself stepped into the witness box as CW2 and also got examined her husband as CW-3, Constable Pardeep Kumar as CW1 and HC Dinesh Kumar as CW4.

Both the courts below dismissed the complaint on the ground that there was no medical evidence available to show that the complainant and her husband had suffered injuries at the hands of the persons arrayed as respondents in the private complaint. While dismissing the complaint, the courts below held that in case the petitioner and her husband had suffered the injuries as alleged, it would be natural consequences that they would have been subjected to medical examination, which has not been done, while also holding that other than the complainant and her husband no other evidence has been produced on record to substantiate the allegations made in the complaint. It is mentioned that the occurrence took place outside the house of the complainant and in such a situation there were bound to be other witnesses around the place of occurrence. Reliance has been placed on the report made by the police under Section 202 of the Code of Criminal Procedure, wherein two persons were found to be at different location belying the statement of the complainant and her husband that those two had participated in the occurrence and gave beatings to them.

Having perused both the impugned orders and taking note of the fact that there was no medical evidence available on record and the report submitted under Section 202 of the Code of Criminal Procedure, this Court is of the opinion that there is no merit in the petition.

Dismissed.

4.12.2018  
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(JAISHREE THAKUR)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |