

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

CRR No. 1713 of 2006.

Date of decision: 19.09.2018.

Bimla Devi

..... Petitioner.

Versus

Omparkash and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Zorawar Singh, Advocate, for
Mr. N.S. Shekhawat, Advocate, for the petitioner.

Mr. Manoj K. Tanwar, Advocate,
for respondents No. 1 to 3.

Mr. Vijesh Sharma, DAG, Haryana, for respondent No. 4 - State.

ANUPINDER SINGH GREWAL, J. (ORAL)

This revision petition has been preferred by the complainant against the judgment dated 04.04.2006 passed by the Sub Divisional Judicial Magistrate, Mohindergarh whereby the accused (respondents No.1 to 3) have been acquitted in FIR No.59 dated 23.07.1999 under Sections 323, 325, 342 read with Section 34 of the Indian Penal Code registered at Police Station Satnali.

It was the case of the prosecution that on 23.07.1999, a 'ruqa' was received by the police from doctor at the Primary Health Centre, Satnali. After receiving 'ruqa', HC Rati Ram along with Constable Ram Niwas reached the Primary Health Centre, Satnali and after taking opinion of the doctor about the fitness of complainant Bimla Devi, recorded her statement. She stated that she was a homemaker and resident of village Dalanwas. She had two sons, namely, Sandeep and Dinesh. On 23.07.1999 at about 06:30

a.m., she was coming to her house after the call of nature. On the way to her house when she reached near the house of accused Omparkash (respondent No.1), her brother-in-law Omparkash (respondent No.1), her sister-in-law Brahama Devi (respondent No.2) and her nephew Ravinder (respondent No.3) blocked her way. They raised a 'lalkara' and all of a sudden they picked her up and took her in the house. She was tied with a rope. Omparkash (respondent No.1) brought a 'kulhari' and hit her with the 'danda' of 'kulhari'. She was given fist blows by the accused. When she cried for help, she was rescued by her sister Sumitra, Banwari Lal and her husband Dayanand. Thereafter, she was brought to the Primary Health Centre at Satnali for medical treatment where her above statement was recorded. On the basis of this statement, a formal FIR was got registered against the accused. On completion of necessary investigation and interrogation, the 'challan' was presented before the trial Court.

The trial Court, finding a *prima facie* case, charge-sheeted the accused (respondents No.1 to 3) for the commission of offences punishable under Sections 323, 325, 342 read with Section 34 of the Indian Penal Code to which they pleaded not guilty and claimed trial.

The prosecution, in order to establish its case, examined complainant/injured Bimla Devi as PW1; Dayanand son of Indraj as PW2, Dr. Alka Bishnoi as PW3, Sumitra Devi as PW4, Dr. N.S. Lohara, Medical Officer as PW5, ASI Ram Savrup as PW6 and Head Constable Rati Ram, Investigating Officer as PW7.

Statements of accused under Section 313 of the Code of Criminal Procedure were recorded wherein the entire incriminating evidence

was put to the accused to which they pleaded false implication.

Learned counsel for the petitioner has contended that as the complainant had suffered several injuries which were duly established from the medical record, the acquittal of the accused (respondents No.1 to 3) is unwarranted in the facts and circumstances of the case.

Learned counsel appearing for the accused (respondents No.1 to 3) has, however, contended that since there were several discrepancies in the statements of the witnesses which were at variance from the medical evidence, the order of acquittal is fully justifiable and does not warrant any interference therewith.

I have heard learned counsel for the parties and have also gone through the records carefully.

After hearing learned counsel for the parties, I am of the view that the judgment of acquittal passed by the trial Court appears to be justified.

The complainant Bimla Devi (PW1) while deposing as a witness had stated that she had received four-five injuries on her person while the medico-legal examination had revealed eight injuries. She had also stated in her cross-examination that she had received injury on the head and blood was oozing from that injury. However, the medical evidence does not indicate any injury on her head. She had also admitted that a fight between the two groups had taken place on 17.07.1999, six days prior to the occurrence. The possibility of the FIR being lodged as counterblast to the previous complaint cannot be ruled out. Sumitra Devi (PW4), who was alleged to be an eyewitness, had stated in her evidence that she did not see anybody beating the complainant and there was no injury on the head of the complainant.

It has also been established that the parties were related to each other and a fight had taken place on 17.07.1999 wherein the complainant in the instant case is stated to have caused injury to the accused (respondents No.1 to 3) for which a complaint had been filed by the accused against the complainant and her relatives in this regard. The injuries which were suffered by the complainant (petitioner herein) are mostly bruises and contusions, simple in nature and on non-vital parts of the body.

Therefore, the view taken by the trial Court while acquitting the respondents is a plausible one.

It is well settled law that interference in an appeal against the judgment/order of acquittal would be called for only in a case where the finding is perverse which has resulted in miscarriage of justice. Even if another view is possible on the same facts and circumstances, the Appellate Court would not interfere in an order of acquittal as the presumption of innocence of the accused is reinforced by an order of acquittal. Therefore, the order of acquittal passed by the Sub Divisional Judicial Magistrate, Mohindergarh does not warrant any interference by this Court in the aforementioned facts and circumstances of the case.

Consequently, the revision petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

19.09.2018
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No