

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

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CRR-2649-2015 (O & M)
Date of Decision:07.12.2018

JYOTI PATHAK

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K.S. Dhillon, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Jyoti Pathak, by way of the present revision petition, has challenged the judgment dated 27.03.2015 passed by the learned Appellate Court, whereby the decision of the learned trial Court dated 30.07.2012 in acquitting the accused persons (respondents No.1 and 2) was upheld. The prosecution relates to the case FIR No.13 dated 15.01.2009 under Sections 323, 341 and 34 IPC, Police Station Sadar, Kapurthala.

The occurrence in the present case allegedly took place on 13.01.2009 and the MLR was received by MHC in Police Station, Sadar, Kapurthala whereupon after obtaining opinion from the doctor statement of complainant-Jyoti Pathak was recorded. As per the allegations, Swaranjit Kaur wife of Jagdev Singh caught hold of the complainant from her hair and Jagdev Singh was abusing her. It is further alleged that Jagdev Singh

instigated Swaranjit Kaur for beating the complainant, whereupon with some sharp edged weapon in her hand, she attacked on her neck and Jagdev Singh hit her on her head with some hard object. She fell down and both the accused gave her blows. She was got admitted in the hospital by her husband Dhananjay Kumar.

After completion of the investigation, final report (challan) was submitted and the charges were framed on 06.01.2010 under Sections 323/341/34 IPC.

The prosecution in all examined 6 witnesses and in the statement under Section 313 Cr.P.C., accused had denied the prosecution version and pleaded false implication. It was explained by the accused that their daughter was taking tuition from husband of the complainant along with other girls, who had committed some unwanted acts with the girls and, therefore, a complaint was given to the Mohalla Committee for taking action against him. It is pointed out that as a result of that grudge this case have been falsely got recorded by them.

In defence evidence, 3 witnesses were examined.

After examination of the evidence on record, the learned trial Court proceeded to acquit the accused persons. Aggrieved against the judgment of the acquittal dated 30.07.2012, preferred the appeal and the appeal was dismissed vide judgment dated 27.03.2015.

Learned counsel for the complainant has argued that the evidence of the prosecution has established the charges against the accused persons as injured PW-2 Jyoti has supported her version. It is argued that the Court has taken into account the minor discrepancy to disbelieve the prosecution version and wrongly proceeded to acquit the accused persons.

Learned counsel for the complainant has been heard and with his able assistance I have also gone through the judgment passed by the learned trial court as well as Appellate Court.

Learned trial Court has relied upon the evidence of PW-1 - Dr. Kulminderjit Kaur and PW-5 - Dr. Narinder Singh, who had examined the injured (Jyoti Pathak) after the alleged occurrence. As per the medical evidence, there was no fracture on the body of the complainant and the blood pressure was 130/80; pulse rate 84, which indicates that there is no reason for her to get admitted in the hospital. The witness has further stated that possibility cannot be ruled out that the patient was falsely complaining for the injuries. Besides, it is specifically noticed by the learned trial Court that she allegedly suffered injuries from a sharp edged weapon at her neck, whereas no such injury is found in the medical evidence. Not only this, the occurrence is itself held to be doubtful as the place of occurrence is 20-25 kms away from the school where complainant is employed, which closes at 3:45 pm and it is not possible for the complainant to be present at 4:00 or 4:30 pm as alleged by the complaint. The eye witness - Varinder Kumar was not examined by the prosecution. The defence evidence has established that actually a complaint (Ex.D-1) was given by accused Jagdev Singh against husband of the complaint on 07.10.2008 whereupon an apology letter (Ex.D-2) was submitted by Dhananjay Kumar. This clearly indicates that the complainant had a grudge against the accused persons. Considering the entire material, the learned trial Court proceeded to acquit the accused.

The Appellate Court has also examined the entire evidence and has affirmed the findings returned by the learned trial Court. The view adopted by the Courts below is founded on proper appreciation of material

i.e. the prosecution evidence as well as the defence evidence. If a prosecution case suffers from material contradiction, the benefit of the same has to be given to the accused. The judgment passed by the Appellate Court does not suffer from any illegality or impropriety. No ground is made out for interference.

Accordingly, the present revision petition is dismissed.

07.12.2018
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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No