

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-3494-2016 (O&M)

Date of decision: 19.02.2018

Anto Devi

...PETITIONER

VERSUS

Ajeet and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ram Kumar Saini, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the judgment dated 25.09.2012 passed by the learned Additional Chief Judicial Magistrate, Hisar, whereby the respondents-accused, who were charged under Sections 323/325/34 IPC, stood acquitted, appeal against which preferred by the petitioner as well as the State was dismissed by the learned Additional Sessions Judge, Hisar.

It is the contention of the learned counsel for the petitioner that out of five accused persons in the FIR, challan was only presented against two accused, namely, Ajeet Singh and Santosh. Anto Devi appeared as PW1 before the trial Court and on the basis of the statement of Anto Devi-complainant (petitioner herein), the remaining three accused were summoned as additional accused on an application under Section 319 Cr. P.C. After the appearance of the other accused, Anto Devi, complainant who is the present petitioner, did not appear before the trial Court to depose.

Although other witnesses were examined which proved the injuries on the person of Anto Devi and also that of Preeti, PW8, the daughter of the complainant, who had reiterated the assertions of Anto Devi PW1 which she had deposed at the stage when she had appeared prior to the moving of the application under Section 319 Cr. P.C. The Court had wrongly proceeded to acquit the accused merely on the ground that the complainant-Anto Devi has not appeared in Court to support her assertions. He, therefore, contends that the judgment, as passed by the Court below, cannot sustain and deserves to be set aside.

Having considered the submissions made by the learned counsel for the petitioner and on going through the judgments passed by the Courts below, the contention of the learned counsel for the petitioner cannot be sustained for the simple reason that the petitioner-Anto Devi, who was the complainant, after the additional accused having been summoned, had not appeared before the trial Court to support the case of the prosecution nor has she faced cross-examination at any stage and, therefore, her evidence cannot be taken into consideration, which she had deposed when challan was only presented against two accused, namely, Ajeet Singh and Santosh. The statement of Preeti, the daughter of the complainant, who is not an eye witness, cannot be relied upon as there is nothing on record which would clearly indicate the factum of the offence having been committed by the respondents. The judgments, which have been passed by the Courts below, being in accordance with law, do not call for any interference especially in the light of the fact that the jurisdiction of the Court in exercise of the revisional powers is very limited and the present case is not one where interference, in any manner, is called for.

Finding no merit in the present petition, the same stands dismissed.

February 19, 2018
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No