

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

**Crl. Revision No. 2175 of 2017 and
Crl. Revision No. 2434 of 2017
Date of Decision: 19.04.2018**

Anita Sharma

.. Petitioner

Vs.

State of Haryana & Anr.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Madan Sandhu, Advocate
for the petitioner.**

ANITA CHAUDHRY, J.

By way of aforesaid revision petitions, a challenge has been laid by the complainant to the order dated 08.03.2017 vide which the appeal filed by Yashwinder Singh against his conviction and sentence under Sections 354-D and 509 IPC recorded by the trial Court, has been allowed and he has been acquitted of the charges and her appeal seeking enhancement of the sentence of accused has been dismissed.

The petitioner got registered FIR No. 203 dated 04.10.2014 registered against respondent No.2 Yashwinder Singh, under Sections 354-D and 509 IPC at Police Station Pinjore and the allegations were that her daughter was returning home, some boys were sitting on the bridge. Makhan son of Pala Ram Gujjar passed comments upon her daughter and on her protest, he misbehaved with her. She and her daughter went to the house of Makhan, then also he misbehaved with them and hurled abuses and

threatened them that what they cannot do anything to him.

The case was investigated. Yashwinder @ Makhan was arrested on 08.10.2014 and was got medically examined. Statement of victim was recorded by the police on 09.10.2014. The complainant refused to take her daughter to the Court for her statement On 25.11.2014 supplementary statement of victim was recorded. On completion of investigation, the accused was put to trial.

Charge under Section 354-D and 509 IPC was framed. Six witnesses, including the complainant and the victim, were produced at the trial.

The accused adjured the trial in his statement under Section 313 Cr.P.C. Some documents were tendered in defence evidence.

On conclusion, the trial Court convicted and sentenced respondent No.2 under Sections 354-D and 509 IPC and substantively sentenced him to undergo simple imprisonment for one year and pay a fine of Rs.1000/- in total.

Dis-satisfied therewith, the accused preferred an appeal challenging his conviction and sentence while separate appeal was filed by the complainant seeking enhancement of sentence. As noticed above, the appeal of the accused was allowed and that of complainant was dismissed.

Aggrieved with the same, the complainant has filed these revision petitions.

Lower Courts record was requisitioned.

I have heard learned counsel for the petitioner and have gone through the records.

Respondent No.2 was tried on the charges under Sections 354-

D and 509 IPC. A person is said to have committed offence under Section 354-D IPC when he follows a woman and contacts or attempts to contact such woman to foster person interaction repeatedly despite a clear indication of dis-interest by such woman and where any word, gesture or act was done with intention to insult the modesty of a woman, it falls within Section 509 IPC. It is apparent from the records that in the complaint, Ex.PW1/A given to the police, on the basis of which FIR was registered and in the subsequent statement, Ex.PW2/C given to the police on 09.10.2014, it was only mentioned that respondent No.2 had passed comments and when she protested, he misbehaved with her. Then she went up to the boys and asked what problem did they have, they started laughing. The complainant and her daughter went to the house of respondent No.2 and the accused misbehaved with them and hurled abuses. It has not been disclosed what words were uttered by respondent No.2 or what he had actually said to the victim. The complainant admitted that her daughter was studying in BA IInd year at that time. It was admitted by the complainant that the complaint, Ex.PW1/A was written by her daughter and she put her signatures thereupon. Since the victim had written the complaint, she could have mentioned the exact words used. There was no allegation either of stalking or making obscene gestures or that respondent No.2 had tried to insult the modesty of the victim. About one and a half month later on 25.11.2014 a supplementary statement was made and an attempt was made to fill up the lacuna. In the statement, the victim came up with the stand that obscene gestures were made by respondent No.2 and when they went to his house, he uttered obscene words. The complainant and the victim had stepped in the witness box, here also they changed their stand and made

number of improvements and deposed that obscene acts were done by the accused. Both of them were disbelieved by the appellate Court and it was concluded that the version given by the complainant and her mother was an after-thought. It was also found that both of them were habitual in making complaints against different persons. Having carefully scrutinized the statement of the complainant and the victim I am of the firm view that the evidence led by the prosecution does not inspire confidence and it is not of sterling worth to bring home the guilt against the accused-respondent and for that reason it was rightly discarded by the appellate Court. They kept on changing their stand during the investigation and then at the trial. They were discrepant on material aspects. No sanctity can be attached to the testimony of complainant and the victim. The golden rule of criminal jurisprudence is that for proving accusation, tangible and reliable evidence is essential to bring home guilt against the accused persons, which is lacking in this case.

The revision petitions are dismissed.

April 19, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No