

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

Crl. Revision No. 3247 of 2017 (O&M)
Date of decision: 13.8.2018

Kavita Devi

...Petitioner

Versus

Balbir Singh and another

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Drupad Sangwan, Advocate
for the petitioner.

JAISHREE THAKUR, J.

The instant revision that has been filed seeking to challenge the order dated 5.9.2013 passed by the Additional Chief Judicial Magistrate, Hisar and order dated 5.6.2017 passed by Additional Sessions Judge, Hisar, by which the complaint filed by Kavita Devi has been dismissed.

In brief, the facts are that on 31.8.2007, the complainant—petitioner herein submitted a complaint alleging that she had gone to the office of Child Development Project Officer (CDPO) at about 4.30 p.m. where Balbir Singh accused was also present. The CDPO went out of the office and taking advantage of the situation, Balbir Singh tried to outrage the modesty of the petitioner. It was stated that Balbir Singh twisted her arms and tried to tear her clothes and her bangles were broken and blood oozed after she cut herself. On making hue and cry, the people reached the spot and she was rescued and thereafter the complaint was filed and FIR

under Sections 323, 354 IPC was registered against Balbir Singh. The matter was investigated, medical report was collected, a site plan was prepared, statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure and on completion of usual formalities, challan was presented in the Court. The Judicial Magistrate Ist Class, examined the evidence available and found that the prosecution has failed to prove its case and acquitted the accused from all the charges. The judgment was affirmed in appeal.

Learned counsel for the petitioner contends that the trial court as well as the appellate court have failed to appreciate the oral as well as documentary evidence brought on record in its entirety and, therefore, acquittal is bad in the eyes of law.

I have heard learned counsel for the petitioner and perused the impugned judgments.

The prosecution in support of its case relied on PW-1 Kavita Devi—complainant, PW-2 Sukhdevi, alleged eye witness of the occurrence, PW3 Kamla Devi, PW-4 Hawa Singh, who deposed about presentation of the challan, PW-5 ASI Satbir Singh, Investigating Officer and PW6 Dr. Paramjeet.

In defence, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure and he denied all the allegations and pleaded innocence. He also examined Smt. Prinita Goswami, who deposed that she was posted in CDPO office and no such occurrence

took place. It was stated that Kavita—complainant was posted as Clerk under her supervision. The wife of Balbir Singh was posted as Clerk in Education Department and husband of the complainant was posted as teacher. It was also deposed that a departmental inquiry was conducted in which Balbir Singh was found innocent and the allegations raised by Kavita were found to be false. It was argued on behalf of the petitioner that there was an old enmity between the accused and the complainant pertaining to delay in releasing the payment. It was argued that the alleged eye witnesses have not supported the prosecution case. Both the courts below, after appreciating the evidence, have held that the complaint per se is false.

The scope of the revisional jurisdiction is limited and this Court would only interfere if there is some gross injustice that has been done or the evidence has not been appreciated in its entirety, which is not the case in hand. The matter has been looked into and evidence appreciated in its entirety. The prosecution has not been able to bring forth any evidence in support of the claim that Balbir Singh had attempted to outrage the modesty of the petitioner. On the contrary, Balbir Singh—respondent has produced oral as well as documentary evidence to prove that there was an old enmity between him and the complainant and therefore, he was falsely implicated in the present case. Counsel for the complainant has not been able to point out any material irregularity in both the judgments. In this background, there is very little scope for interference by this Court since the evidence can not be re-appreciated.

For the reasons afore-stated, the instant revision petition is dismissed being bereft of merit.

13.8.2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No