

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

225-2

CRM-A-1936-MA-2015(O & M)
Date of Decision:15.05.2019

KANTA DEVI

...APPLICANT

VERSUS

SUBHASH CHANDER AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.K. Handa, Advocate
for the applicant.

MANOJ BAJAJ, J.

Kanta Devi-complainant has preferred this appeal against the judgment dated 15.03.2014 passed by the learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhari, whereby accused (respondents) have been acquitted of the charges in a complaint under Sections 323 and 506 IPC.

The brief facts of the present case are that the husband of the complainant and respondent No.1 are real brothers and the present dispute had arisen due to some property situated at Rajheri. On 26.05.2007, the complainant along with her husband had gone to village Rajheri to sow paddy crop in their fields. The water had been flowing to the fields of the husband of the complainant and at about 6.00 pm, respondents No.1 and 2 with kassi and danda in their hands came at the spot and damaged the intervening dole of the fields of the husband of the complainant and trespassed into his fields. When the complainant tried to stop, the accused

person caused injuries to the complainant with danda and from the reverse side of kassi. On hearing the noise of the complainant, some of the neighbour including Ms. Neeraj came at the spot and on seeing her, accused (respondents) ran away from the spot along with their weapons.

After appearance of the accused, the trial commenced. The trial Court after examination of material of evidence on record, proceeded to acquit the accused.

Learned counsel for the applicant has contended that the trial Court has misread the evidence led by the complainant and has wrongly acquitted the accused (respondents). It is contended that the leave to appeal may be granted as the impugned decision warrants interference by this Court.

Perusal of the judgment shows that the learned trial Court had discussed the evidence in detail. Para 15 of the trial Court judgment reads as under:-

“15. Further, in the present complaint, the complainant has simply averred that the accused no.1 was armed with kassi, whereas, accused no.2 was armed with danda and both of them have caused injuries upon various parts of her body. However, she failed to give the details of the body parts where the injuries were inflicted upon her. Even in her evidence on record, she has simply deposed that the both the accused were armed with kassi and danda, respectively and they tried to give beatings and thereafter, out of fear they came back to Barara. However, no detailed of alleged injuries have been given in her statement made on oath. Further, it is very strange that both the accused being armed with kassi and danda had beaten the complainant being a lady but only two injuries have been suffered by her. On the other hand, both the accused have received as may as 19 injuries despite the fact that the complainant or her husband claims that they did not cause any injuries upon the person of accused. Thus, the version of complainant does not inspire the confidence of the court.

Even during her cross examination the complainant stated that on the date of alleged incident, she alongwith her husband had gone to Naharpur hospital as well as in the police station, but no action was taken. But the said version is contrary to her pleadings taken in the complaint. Even she has gone to the extent of saying that her husband did not made any complaint to the police regarding the present incident. She has further admitted that the present case has been filed as she wants a share in the property.”

In view of the above, it is clear that the trial Court has carefully examined the evidence on record and view adopted by the trial Court is based upon correct appreciation of material and the prosecution evidence. No ground for interference is made out.

Accordingly, the present application seeking leave to appeal is dismissed.

Since the main application seeking leave to appeal is dismissed on merits, therefore, the application seeking condonation of delay of 555 days in filing the appeal is also dismissed.

15.05.2019
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(MANOJ BAJAJ)
JUDGE

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