

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

201

IOIN-CRR-1660-2003 in/and CRR-1660-2003

DATE OF DECISION: 02.05.2019

MUKHTIARI DEVI

... Petitioner(s)

Versus

STATE OF HARYANA AND ORS.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Subhash Godara, Advocate with
Mr. S.S. Dinarpur, Advocate for the petitioner(s).

Mr. D.R. Singla, DAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

This petition has been preferred against the acquittal of the private respondents in FIR No.120 dated 05.06.1992, under Sections 148/149/448/323/452 IPC, registered at Police Station Shahabad, District Kurukshetra.

It was the case of the prosecution that on 03.06.1992, information was received from the Civil Hospital, Shahabad regarding admission of Narati Devi and Mukhtiari Devi. ASI Rati Ram went to the Civil Hospital and doctor declared the injured unfit to make the statement. He again went on 04.06.1992 and the doctor declared the injured fit to make statement but the injured was not found at Civil Hospital. On enquiry, it came to the knowledge of the police that injured Narati Devi was admitted at Chhavi Parkash Hospital and, thereafter, ASI Ram Singh along with Constables Surinder Singh and Naresh Kumar went to Chhavi Parkash Hospital and recorded statement of the complainant Narati Devi. It was stated by her that she is a resident of Village Basantpur and had a kucha house built on 'shamlat land', which they intended to reconstruct after

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demolishing the same. Jagdish and Lal Chand had taken an injunction order from the Civil Court and during pendency of the case, they had built a wall along with the door. In the night intervening 2/3.6.1992 at about 11/11:30 p.m., accused Jagdish, Lal Chand, Mam Chand, Joginder Dharambir and Ramesh came in the village with a common intention and started demolishing the wall and the door. As the male members of the family were out of station, she and Mukhtiari resisted their illegal act on which Lal Chand gave a lathi blow on the head of the complainant and Mam Chand gave a lathi blow on her right shoulder and Jagdish gave a 'lathi' blow on the shoulder of Mukhtiari Devi. When they raised hue and cry, Rachna and Ram Chand came on the spot and rescued them from the clutches of the accused. In the meantime, the accused (respondents No.2 to 7 herein) fled away from the spot along with their respective weapons. She also stated that they had hurled brick bats at the accused in their self-defence. On her statement, the FIR was registered and the Investigating Officer went to the site and prepared rough site plan of the incident. Statements of witnesses were recorded and accused were arrested formally. On completion of necessary investigation, 'challan' was filed in Court on 18.07.1992. The accused were charged under Sections 323/148 read with Section 149 IPC, to which they pleaded not guilty and claimed trial.

The prosecution, in order to establish its case, examined PW-1 Jawala Singh, PW-2 Dr. V.K. Jain, PW-3 SI/SHO Surinder Singh, PW-4 SI Ram Singh and PW-5 Mukhtiari Devi, PW-6 Rachna Ram and PW-7 Narati Devi.

Learned counsel for the petitioner has contended that on the basis of the testimony of the injured witnesses there was no occasion for the trial court to have acquitted the accused.

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It is apparent from the perusal of the judgment of the trial court that a cross case had been registered by the accused in which two persons of the complainant party had received serious injuries. The injuries, which were on the person of the accused (respondents No.2 to 7 herein), have not been explained by the prosecution. There was civil litigation between the parties which had been decided in favour of accused (respondents No.2 to 7 herein) and, therefore, they could not have been held to be aggressors. The act of aggression was on the part of the complainant, as they had trespassed into the house of the respondents No.2 to 7 (accused). The injuries which they had caused were in the right of their private defence.

Therefore, the judgment of trial Court in acquitting the accused (respondents No.2 to 7 herein) is justified and would not call for any interference by this Court.

Consequently, the petition stands dismissed.

02.05.2019

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**(ANUPINDER SINGH GREWAL)
JUDGE**

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No