

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

CRR No.2683 of 2011.

Decided on:- May 20, 2019.

Balkaran Singh @ Kinnu.

.....Petitioner.

Versus

The State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present criminal revision against the judgment dated 16.08.2011 passed by learned Additional Sessions Judge, Sri Muktsar Sahib whereby his appeal against the judgment of conviction and order of sentence dated 15.11.2008 passed by learned Judicial Magistrate 1st Class, Malout, was dismissed.

Briefly stated, FIR No.43 dated 22.02.2007 under Section 354 IPC was registered against the petitioner at Police Station Sadar Malout at the behest of complainant Gurmeet Kaur daughter of Tarsem Singh. As per the FIR, on 16.02.2007 at about 04.00 P.M. when she was coming back towards her house after attending tuition and was at a distance of about 150 yards from her house, she noticed that her mother Malkiat Kaur and father Tarsem

Singh were waiting for her and were standing on the door of their house. However, at the same time, petitioner Balkaran Singh @ Kinnu of their village came there and caught hold of her arm and pulled her towards his house, upon which she raised a voice. On hearing her voice, her father had come to rescue her. Thereafter, the petitioner ran away from the spot. She was taken to her house by her parents. As the matter was regarding a girl child, a Panchayat was convened. However, the petitioner had neither appeared before the Panchayat nor had come to the complainant. In these circumstances, the matter was reported to the police and accordingly, the FIR was registered against the petitioner.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copy of report along with other documents was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case against the petitioner, he was charge-sheeted under Section 354 IPC, to which he did not plead guilty and rather claimed trial.

After recording the evidence and hearing arguments, learned trial Court vide impugned judgment dated 15.11.2008 held the petitioner guilty and convicted him under Section 354 IPC. Vide separate order dated 15.11.2008, the petitioner was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for two days.

Aggrieved against the judgment of conviction and order of sentence dated 15.11.2008 passed by the trial Court, the petitioner preferred an appeal before the Court of Session, but the same was also dismissed by

learned Additional Sessions Judge, Sri Muktsar Sahib vide impugned judgment dated 16.08.2011.

It is in these circumstances, the petitioner has filed the present criminal revision.

Learned counsel for the petitioner has argued that the impugned judgments passed by learned Courts below suffer from legal infirmities. The impugned judgments passed by the Courts below are against the law as well as evidence produced on record. The FIR was registered against the petitioner with oblique motive.

He has further argued that there is improvement in the statement of complainant Gurmeet Kaur. While appearing in the witness box as PW1, she has stated that her house is situated opposite to the house of petitioner. The sister of complainant, namely, Gagandeep Kaur is married with Gohla Singh, who is cousin of the petitioner. The family of the complainant was having grouse against the petitioner as the said marriage was solemnised against the wishes of complainant family and was rather due to intervention of the petitioner. Therefore, the story as projected by the complainant is liable to be disbelieved. He has further argued that as against the awarded sentence of six months, the petitioner has remained in custody for about three months.

On the other hand, learned State counsel has argued that apart from the fact that jurisdiction of the revisionary Court is very limited, there is no illegality in the impugned judgments passed by the Courts below. Custody certificate produced by learned State counsel in Court today, is taken on record. Custody to the petitioner is not in dispute.

I have heard learned counsel for the parties.

The complainant had appeared before the trial Court as PW1 and as per her statement, on the relevant date, when she was coming after attending the tuition, the petitioner committed obscene act with her and caught her from her arm and had tried to drag her in his house. Her parents were witnessing this occurrence. The petitioner ran away after leaving the complainant. Though in her examination-in-chief, she has stated that the accused misbehaved with her when she was about 150 yards away from her house, but in her cross-examination, this witness has deposed that her house and the house of the petitioner are in front of each other. The petitioner was not following her, but was passing comments on her.

The cross-examination of complainant as PW1 further reveals that Gohla Singh, who is cousin of the petitioner, has solemnised marriage with Gagandeep Kaur, who is real sister of the complainant. PW1 has further admitted in her cross-examination that they have grouse against the petitioner as the marriage of the son of maternal uncle of the petitioner was solemnised with Gagandeep Kaur at the intervention of the petitioner. The said marriage was solemnised 3-4 years back and they are having dispute with the petitioner for the last 3-4 years. She has further admitted that they (the complainant and her other family members) does not have any dealing with her sister Gagandeep Kaur. Therefore, this Court finds that there are inherent contradictions in the statement of the complainant while deposing before the trial Court as PW1 and the petitioner deserves to be extended the benefit of doubt for these contradictions, which are quite material in the case.

Moreover, in the light of the background that the complainant party is already aggrieved with the action of Gohla Singh, who is cousin of the petitioner, the involvement of the petitioner in the false case cannot be ruled out.

Though the scope of interference in the revisional jurisdiction is very limited, but considering the material contradictions in the statement of complainant, as indicated above, this Court is sufficiently satisfied that the story propounded by the complainant is motivated.

Therefore, while allowing the present criminal revision, the petitioner is acquitted of the charge framed against him and the impugned judgment of conviction and order of sentence dated 15.11.2008 passed by the trial Court as well as the impugned judgment dated 16.08.2011 passed by the appellate Court are set aside.

May 20, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No