

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1134-2015 (O&M)

Date of decision: 05.02.2019

Smt. Anita

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Sunny Bhardwaj, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, the complainant-petitioner has laid challenge to the judgment of Ist Appellate Court dated 05.12.2014, whereby appeal filed by her against the judgment of the trial Court dated 16.10.2013 acquitting respondents No. 2 and 3, namely; Rajesh and Anil, was dismissed.

Heard.

Learned counsel *inter alia* contends that the petitioner had suffered three fractures as per deposition of PW-5 Dr. Pawan Goyal. Both the Courts below have failed to appreciate this aspect of the matter and also the fact that a fracture cannot be self-inflicted. Both the Courts below have wrongly recorded in their judgments that father of petitioner, namely; Harpal Singh, who appeared as PW-4 was not cited in the list of witnesses attached with the final report under Section 173(2)

Cr.P.C., ignoring the fact that his name was mentioned at serial No. 4. He further contends that beatings to the petitioner by respondents No. 2 and 3, was reported to police promptly in time, but it did not take any action, despite visiting the place of occurrence twice. The Panchayat of village also gave decision in favour of the petitioner that respondents No. 2 and 3 were involved in causing injuries to the petitioner. Danda allegedly recovered from respondents No. 2 and 3 was not produced in Court. Therefore, for any lapse on the part of prosecution, the petitioner could not have been made to suffer.

Having given thoughtful consideration to the submissions of learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

No question of law, much less substantial, has been raised in this revision.

In revision, this Court has very limited power, which can be exercised only, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned being based on appreciation of evidence. Therefore, the same are not required to be interfered with.

Petitioner as PW-1 testified that at the time of beatings to her by respondents No. 2 and 3, many persons were present at the spot, but this fact was not mentioned by her in her initial complaint Ex. PW-1/A.

The motive for causing injuries to the petitioner-complainant was for not paying ₹ 4,00,000/- (Rupees Four Lakhs) to respondents No. 2 and 3 by her family members for getting a job of conductor for respondent No. 3-Anil (husband of the petitioner). The assertion was also found missing in the initial complaint Ex. PW-1/A.

FIR in the instant case was registered approximately after 18 days of the occurrence which also created doubt in the minds of both the Courts below regarding allegations made in the complaint. According to the petitioner, she was caused injuries by respondents No. 2 and 3 with lathi or danda, but no injury was shown in her medico-legal report. Even the petitioner as PW-1, went to the extent of saying that her husband-respondent No. 3, had raped her many a times. However, this was not possible, inasmuch as, petitioner is the wife of respondent No. 3-Anil. Even no such fact was narrated in her initial version Ex. PW-1/A. In her cross-examination, she stated that she was assaulted in street, whereas in her initial version she stated that she was given beatings in her house.

The story put forth by the prosecution that police did not record FIR, despite her promptly approaching it, has no legs to stand as she has not got herself medico-legally examined. Only medical treatment record dated 23.11.2008 is available on the record, which, by, in itself, cannot be taken as corroborative evidence in the absence of any MLR, inasmuch as, PW-5 Dr. Pawan Goyal, in his cross-examination testified that possibility of alleged injuries suffered by the petitioner could be due to fall on hard surface. The petitioner even did not examine any radiologist or produce X-ray report in support of her assertion that she

had suffered three fractures.

Site plan of the place of occurrence prepared by the police was also not proved on record during trial. Therefore, entire version of the petitioner as PW-1 is nothing, but major improvements to her initial version Ex. PW-1/A. There are various other material discrepancies and contradictions in the initial complaint and statement of the petitioner as PW-1, which are dealt with in judgments of both the Courts below. Their repetition shall be a sheer wastage of time.

I have carefully gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. The instant revision, being meritless, is dismissed.

February 05, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No