

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3930 of 2014 (O&M)

DATE OF DECISION: JULY 22, 2019

JALLO BAI

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. RAMAN GOKLANEY, ADVOCATE
FOR THE PETITIONER.

MR. RAMDEEP PARTAP SINGH, DAG, PUNJAB.

MR. KULWINDER S. DHILLON, ADVOCATE
FOR MR. A.S. MANAISE, ADVOCATE
FOR RESPONDENT NO.2.

MANOJ BAJAJ, J.(ORAL)

This petition has been filed challenging the judgement dated 12.12.2013, passed by Addl. Sessions Judge, Fazilka whereby the judgement of conviction dated 7.1.2013 passed by the Chief Judicial Magistrate, Fazilka in case FIR No.124 dated 1.11.2009, under Sections 325, 323, 34 IPC, registered at Khui Khera, was upheld and the order of sentence dated 7.1.2013 imposing RI for 2 years and fine of ₹1000/- and in default, to undergo R.I. for 30 days each, under Section 325 read with Section 34 IPC and RI for 1 year and fine of ₹1000/- and in default, to undergo R.I. for 30 days under Section 323 read with Section 34 IPC each, was modified and benefit of probation was granted to the accused-respondents No.2 to 4.

The aforesaid FIR was registered at the instance of

complainant-injured (petitioner) stating that on 2.10.2009 at about 5.00 p.m., Phuman Singh, Mahla Singh and Joginder Singh (respondents No.2 to 4), residents of village Sabuana were digging the earth on the plot measuring 5½ marlas which was in possession of the complainant. While the accused were stopped from doing the same, Phuman Singh raised lalkara to catch hold of her to teach a lesson and Mahla Singh gave a stick blow on her right hand little finger and Joginder Singh gave a stick blow on her left foot. On raising a hue and cry, her son Bagga Singh came at the spot and got her admitted in Civil Hospital, Fazilka.

After registration of FIR, the case was investigated. The accused were arrested and on completion of all the formalities, challan was presented against them. The accused were charge-sheeted for the offences punishable under Section 325, 323 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

The prosecution in all examined 5 witnesses and thereafter the incriminating evidence was put to the accused. The accused in their statements under Section 313 Cr.P.C. pleaded innocence and claimed that they had been falsely implicated.

The trial Court after examining the testimony of the prosecution witnesses and the medical evidence convicted and sentenced the accused as stated above.

An appeal was filed against the aforesaid judgement of conviction and order of sentence before the appellate Court. The appellate Court while confirming the conviction of the convicts, modified their

sentence and granted them the benefit of probation. The complainant has challenged the appellate Court judgement in this revision.

Learned counsel for the petitioner has contended that the occurrence was duly proved by the prosecution and there was no logical reason to grant the benefit of probation to the convicts-respondents No.2 to 4. It has been further contended that the injured petitioner is a lady and crime against woman may be strictly dealt with.

Learned counsel for respondents No.2 to 4 has argued that the 10 years have elapsed since the occurrence which took place in the year 2009. It has been further argued that respondents No.2 to 4 were not previous convicts and also did not misuse the concession of probation granted to them. It has also been argued that the occurrence took place suddenly and was not premeditated.

I have heard learned counsel for the parties and gone through the case file.

The occurrence has been duly proved by the prosecution before the trial Court who convicted and sentenced respondents No.2 to 4 accordingly. However, in an appeal filed by respondents No.2 to 4, the appellate Court considering the nature of injuries, the age and the fact that they are not hardcore criminals modified their sentence and granted them the benefit of probation. However the convicts-respondents No.2 to 4 were directed to deposit ₹15,000/- each towards compensation to be paid to the complainant.

This Court is of the opinion that balance has been struck by the

appellate Court and concession extended is founded on sound judicial principles. Considering the nature of injuries, the antecedents of respondents No.2 to 4 and the fact that the petitioner-complainant has been adequately compensated, this Court does not find any reason to interfere with the judgement passed by the appellate Court.

The revision petition stands dismissed.

As the main revision petition stands dismissed, therefore, the application for condonation of delay also fails and it also stands dismissed.

July 22, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No