

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 506 of 2015 (O&M)
Date of decision : January 16, 2019

Anita Rani

....Petitioner

versus

State of Haryana and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Krishan Singh, Advocate, for the petitioner

Fateh Deep Singh, J. (Oral)

The brief facts that deserve to be highlighted before adjudicating present revision are as follows:-

The case by way of FIR No. 180 dated 7.8.2009, under Sections 354, 451 IPC was got registered with Police Station Chhappar, District Jagadhri on the statement of complainant Anita Rani, the present revisionist. In the allegations made in her complaint Ex. PW1/A she alleged that she is resident of village Judda Jattan. It is further stated that the respondent-accused Sita Ram tress passed into her house in a drunkard state and tried to outrage her modesty and on raising hue and cry and grappling with the accused, people were attracted and the accused fled away from the

spot.

On completion of investigations, challan was presented and after necessary formalities charges under Sections 354 and 451 IPC were framed and on accused pleading not guilty, the prosecution examined the following witnesses:-

The complainant testified as PW1 and examined PW2 Neeraj Kumar. Thereafter the evidence of the prosecution was closed vide orders dated 1.11.2011.

Upon putting all the incriminating evidence oral as well as documentary to the accused in his statement under Section 313 Cr.P.C. the accused denied the allegations.

In his defence the accused examined ASI Surender Singh as DW1 who proved the inquiry report on the complaint of complainant Ex. D1. Consequent upon arguments vide orders dated 16.4.2012, the court of learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri held that the prosecution miserably failed to bring home the guilt of the accused beyond shadow of reasonable doubt and thereby acquitted the accused.

The same was challenged by way of appeal by the complainant and the court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide impugned findings dated 5.12.2014 dismissed the appeal. That is how the parties are before this Court in this invocation.

After hearing Mr. Krishan Singh, learned counsel for the petitioner-revisionist and on perusal of the records, it is a golden principle of criminal jurisprudence that onus to prove its case always rests upon the prosecution. Under this principle the prosecution is supposed to establish its case beyond shadow of reasonable doubt, failure to do so certainly entails rejection of the case of prosecution. The complainant as PW1 has categorically stated in her testimony that on 19.7.2009 between 9.00 PM to 10.00 PM while she was alone in the house Sita Ram accused tried to misbehave with her and further tried to outrage her modesty and on her raising hue and cry her son Neeraj Kumar was attracted and proved her complaint to the police as PW1/A. The lone witness that has come in support of the case of the complainant is her own son Neeraj Kumar PW2 who states that at the time when the occurrence had taken place he was in the house of the neighbour and on hearing raula he came to the house and saw his mother crying who told her that the accused had tried to outrage her modesty and at that time the accused ran away. Perusing his evidence it is a clear cut case that this witness PW2 is the son of the complainant and has never witnessed the actual occurrence and it is subsequently when he rushed to home his mother disclosed about the incident to him and thus his testimony is more based on hearsay then direct evidence. Thus, in the light of this situation his testimony is to be taken with a pinch of salt and

deserves to be scrutinized with more care and caution. It is the case of the complainant herself that when she raised raula, people were attracted to the spot. To the specific query of the Court, the learned counsel for the petitioner was clearly at loss of words, names of the persons who were attracted and what testimony has come about by these witnesses at the trial. More-so in her complaint Ex. PW1/A as has been observed by the court below, the deposition of the complainant as PW1 and her allegations in the complaint PW1/A are at much variance. It is there in her cross-examination that the complainant and the accused side are not on talking terms and a case is pending between them before the court of learned SDM. There is nothing suggestive as to the date of the occurrence in her complaint nor the date is mentioned in her complaint. Further more she states in her evidence that the complaint Ex. PW1/A was got written by a police official on 7.8.2009 when she claims that she moved the complaint on 19.7.2009 rather falsifies materially her stand to this effect. There is inordinate delay in reporting the matter and rather what appears to the mind of the Court there is a subtle attempt by the complainant to antedate the complaint for a motivated cause. More-so as has been noticed by the court below even the Investigating Officer or none of the official witnesses have been examined to further the case of the complainant. What clinches the issue against the complainant is that in an inquiry proved on record

as Ex. D1 by DW1 ASI Surender Singh, DSP Jagadhri has found no substantial truth in the complaint as the parties were having enmity and dispute with each other and were in habit of making false complaints are matters of much significance.

Summing up all what has been brought on the record, the prosecution story belies truth and being not acceptable one has certainly miserably failed to prove even an iota of allegations against the complainant. The learned trial court has arrived at a judicious decision which is commensurate with the evidence on the records. The impugned findings certainly needs to be upheld. There being no illegality or perversity in the same. The present revision is hopelessly without merits and is dismissed.

January 16, 2019

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(Fateh Deep Singh)

Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>