

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

CRR-2696-2018 (O&M)
Date of decision : 27.08.2019

Shakuntla

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Manoj K. Tanwar, Advocate for the petitioner.

ANIL KSHETARPAL, J.

CRM-28533-2018

Application is allowed.

Exemption as prayed for, is granted.

CRM-28534-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 34 days in filing the revision petition is condoned.

Application is allowed.

Main case

This criminal revision petition has been filed against judgment passed by learned Additional Sessions Judge, Narnaul accepting the appeal filed by the accused and reversing the judgment of conviction.

An FIR No.231 dated 27.06.2010 was registered under Sections 323, 325 and 452 read with Section 34 of the Indian Penal Code against accused. Detailed facts have been noticed by the learned Courts below. In

short, it was alleged that victim Shakuntla-petitioner herein was attacked and injured by the accused. On completion of the investigation, Rajender, Piru, Bijender @ Mangla and Shakuntla were charge-sheeted whereas Kalia was placed in column No.2 who was later on summoned as additional accused vide order dated 15.09.2012.

Prosecution examined Santra Devi as PW1, Injured Shakuntla as PW2, Dr. Vikash Tekwani as PW3, Head Constable Sunil Kumar as PW4, eye witness Neelam as PW5, Dr. Vikash Dhingra as PW6, SI Ramesh Chander (Retired) as PW7, Head Constable Sushil Kumar as PW8 and Mainpal as PW9.

As noticed earlier, trial Court convicted Rajender, Bijender, Shakuntla wife of Rajender and Kalia @ Surender, however, the appeal filed by the accused has been accepted.

Learned First Appellate Court has dealt with the evidence in detail and on re-appreciation thereof found that the prosecution has failed to prove its case beyond shadow of reasonable doubt.

Learned counsel for the petitioner has submitted that the learned Additional Sessions Judge has misread the evidence of PW1-Santra Devi and PW5-Neelam and, therefore, reached at a wrong conclusion that both are not the alleged eye-witnesses of the incident.

This Court has examined the photocopy of the evidence which has been produced by the learned counsel for the petitioner for perusal of this Court.

On careful reading of the statement of Santra Devi-PW1, it is apparent that she has stated that she reached at the place of incident after the

incident had happened as her sister Neelam, who at the relevant time was pregnant, was with her and she could not move quickly. Although, she states that accused were present and they also tore her cloth. She further stated that when she complained to the police in this regard, the police did not take possession of the torn clothes. Thus, there is no misreading of evidence of Santra Devi-PW1.

Now let us examine the evidence of PW5-Neelam. In the statement before the police, she had stated that she was not at the house of her mother-in-law when the incident took place however, she tried to improve the aforesaid statement. When she appeared as PW5, she was confronted with the aforesaid fact with her previous statement Ex.DA. Still further, she is the lady who was pregnant and Santra Devi had stated that she came alongwith Neelam who could not move quickly as she was pregnant. Still further, on careful reading of the statement of the injured-petitioner-Shakuntla Devi who has appeared as PW2, it is admitted that Santra Devi and Neelam were not in the house as they reside in a different house in the same village. She has stated that she resides with Parveen.

Even the presence of son Mainpal who has been examined as PW9 is doubtful. It is strange that Mainpal did not make any effort to save his mother. Although, Mainpal has stated that he took mother to the Hospital, however, as per the record, she was brought to the hospital by daughter-in-law Santra Devi. Still further, Smt. Shakuntla has stated while appearing as PW2 that Kalia had used sharp side of axe in causing the blow on her head, however, the medical evidence does not support that Doctor PW3 has reported that injury was a small lacerated wound just 3 cm x 1 cm

in size on the left side of forehead which was simple in nature. Medico-legal report PW3/C specifically mentions that injury No.1 was caused by blunt weapon which falsifies the deposition made by the injured. If the alleged axe blow was given from the blunt side, it would have been caused compressed fracture which is not the case. Still further, the case of the prosecution is even more doubtful as 70 years old female was allegedly given axe blow on her head but she was not provided with any medical aid except getting her medico legal examination. There is no documentary evidence that she was medically treated after her medico legal examination. Further, it has been alleged by Smt. Shakuntla that Piru had given her blow with wooden baton and had run after Mainpal. However, Investigating Officer PW7 has disclosed that Piru was too old to move.

For the reasons stated above which are plausible and reasonable, this Court while exercising the powers of Revisional Court does not find any reason to interfere. Learned counsel for the petitioner has failed to point out any manifest error of law or procedure. Learned counsel has further failed to point out any material illegally or irregularity. Hence, there is no ground to interfere.

Accordingly, the present criminal revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of in view of the abovesaid judgment.

27.08.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No