

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

Sr. No.236

**CRM-A-85-MA-2017 (O&M)
DECIDED ON: March 20, 2019**

BABLI

..APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Chanderhas Yadav, Advocate, for the appellant.

SUDHIR MITTAL, J. (ORAL)

This appeal challenges judgment dated 23.11.2016, whereby her complaint under Sections 323, 325, 452, 506 & 34 IPC has been rejected by the trial Court.

On the filing of the complaint, vide order dated 01.08.2013, the accused persons namely the respondents were summoned to stand trial for offences under Sections 323, 452, 506 & 34 IPC. The complainant alleged in her complaint that on 21.09.2010, the accused persons trespassed into her house armed with lathis and inflicted lathis blows upon her. A similar treatment was given to her son Krishan when he tried to save her. While they were lying on the ground, the accused persons rained, kick and punch blows upon them.

After framing of charges, the statements of the accused persons were recorded under Section 313 Cr.P.C., in which, they claimed false implication.

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The learned trial Court acquitted the respondents by returning the findings that the complaint was filed almost two years after the date of the incident and that the statements of the complainant's witnesses are not reliable as according to the medico legal reports of the complainant and her son, they had suffered only one injury each which is in the nature of pain and swelling and if the complainant and her son had been attacked by 4-5 persons armed with lathis, they would have suffered many more injuries.

The aforementioned findings of the trial Court are neither illegal nor perverse. In their defence, the accused-respondents exhibited copy of judgment dated 28.01.2016 of case titled *State vs. Ram Kumar & anr.*” as Ex.DW1 vide which the husband of the complainant namely Ram Kumar @ Lila Ram and her son Krishan were held guilty and sentenced for having physically assaulted accused-respondent No.3-Kamla. The judgment pertains to an incident of 21.09.2010 which is also the date of the incident in the complaint. The complaint was filed on 17.09.2012 and thus, the trial Court was right in finding that the complaint was a counter blast to the FIR registered against the husband of the complainant and her son. The finding that no reliance can be placed upon the witnesses of the complainant, also cannot be faulted in the light of the medical evidence that the complainant and her son had suffered only one injury each which was in the nature of pain and swelling.

Thus, there is no merit in this appeal and the same is accordingly dismissed.

March 20, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No