

CRM-M-10385-2015

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

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Date of decision: 11.02.2020

Santra Devi

.... Petitioner

Versus

Parvati & anr.

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. J.S.Yadav, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 482 Cr.PC for setting aside the impugned orders dated 27.04.2011 (Annexure P-3) passed by JMIC, Rewari and 24.09.2014 (Annexure P-4) passed by Addl. Sessions Judge, Rewari vide which the complaint No.RBT 98 of 31.10.2006 filed by the petitioner was dismissed.

As per complaint dated 31.10.2006 (Annexure P-1), on 01.10.2006 at about 6.00 pm the complainant had gone to her plot for collecting wooden fuel when she noticed that the respondents were demolishing a part of her boundary wall. On being asked by the complainant Santra Devi not to demolish the boundary wall, both the respondents started abusing the complainant Santra Devi and threatened to kill her in case she stopped them from doing so. Thereafter, respondent No.2-Om Parkash entered the plot of the complainant Santra Devi and held her hand and respondent No.1-Parvathi gave fist blows to the complainant as a result of which, she fell down on the ground. Santosh Bai and Inder Singh on receipt of information qua the alleged quarrel reached the spot and saved the complainant Santra Devi from the clutches of the

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respondents. It was also submitted that prior to the occurrence in question, the respondents had inflicted injuries to the complainant on 16.09.2005 for which a criminal complaint already stood filed.

Learned counsel for the petitioner vehemently urged that the two eye-witnesses i.e. Inder Singh and Santosh Bai fully supported the case of the complainant. He further submitted that on 04.10.2006, a complaint too was made to SHO Rampura, which stood entered at serial No.214 dated 04.10.2006. Thereafter an inquiry was conducted by the police and proceedings under Sections 105/51, 107/50 Cr.PC. It was urged that despite all this, learned trial court gravely erred by discharging the respondents-accused even though a prima facie case was made out.

I have heard learned counsel for the petitioner and gone through the impugned judgment and order passed by the Court below.

A perusal of the testimonies of eye-witness Santosh Devi reveals that it is at complete variance with that of the complainant Santra Devi. As already noticed above, as per the complainant Santra Devi when she was beaten up by the accused-respondents, she fell on the ground and cried for help. Subsequently, the two eye-witnesses Santosh Devi and Inder Singh on receipt of information qua the quarrel reached the spot. However, eye-witness Santosh Devi during her preliminary evidence came up with an altogether different version. She stated that she along with the complainant had gone to the place of occurrence for collecting wood and when the complainant Santra Devi stopped the accused-respondents from demolishing the boundary wall, the respondents-accused beat up the complainant and thereafter, Inder Singh arrived at the spot. Not only this, the case of the complainant was that after being beaten up, she became unconscious and it was thereafter, both the eye-witnesses arrived at the

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spot. It is very apparent that material improvements have been made by the witnesses during their pre-charge evidence. Another dent, which was created in the case of the complainant was to the effect that eye-witness Inder Singh in his cross-examination categorically deposed that the complainant had not become unconscious, which was at variance with the case of the complainant that after being assaulted, she became unconscious.

No medical evidence was placed on record qua the assault as well as qua the complainant having been rendered unconscious. The complainant submitted that she had gone to a local doctor for treatment, however for reasons best known to the complainant the name of the doctor nor the medical prescription was ever placed on record. Admittedly, the relations between the parties were strained and hence, the likelihood of a fabricated version cannot be ruled out. It may also be noticed that the alleged two eye-witnesses and the complainant belong to the same family. Further, as per the complainant and Santosh Devi when the occurrence took place, many persons from the neighbourhood were attracted to the spot. The least the complainant could have done was to examine at least one person from the said gathering or mention the name of one such person; however, there is complete silence qua the same.

As a sequel to the above, I do not find any illegality of perversity in the impugned order passed by the Court below and the same is well reasoned one.

Accordingly, the present petition stands dismissed.

11.02.2020
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes
Yes