

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.844 of 2018

DATE OF DECISION: JANUARY 14, 2020

SURINDER KAUR

...PETITIONER

VERSUS

NARANJAN SINGH & ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. M.S. DHAMI, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

Complainant-Surinder Kaur has filed the present revision petition against the judgement dated 3.11.2017, passed by the Addl. Sessions Judge, Hoshiarpur whereby the sentence awarded to respondent No.1 by the trial Court was modified and he was released on probation.

The trial Court convicted and sentenced respondent No.1 as under:-

Conviction Under Section	Sentence
506 (Part II) IPC	Rigorous imprisonment for 2 years alongwith fine of ₹1000/- and in default, to further undergo rigorous imprisonment for 30 days.
323 IPC	Rigorous imprisonment for 1 year alongwith fine of ₹500/- and in default, to further undergo rigorous imprisonment for 30 days.

Both the sentences were ordered to run concurrently.

The prosecution case is that on 3.5.2015 MHC Police Station handed over one MLR No.KJS/51/2015 pertaining to Surinder Kaur wife of Balkar Singh to ASI Jasvir Singh for enquiry. The ASI alongwith other

police personnel visited the Civil Hospital, Tanda and asked for opinion of the Doctor for recording the statement of Surinder Kaur, but it was opined that she was not conscious due to injury and would record her statement later. When ASI Jasvir Singh alongwith police party was again going to Civil Hospital, Tanda for recording her statement, then Surinder Kaur met them at Hospital Chowk, Tanda and got recorded her statement wherein it was stated that on 3.5.2015 at about 5.15 a.m. when she was going towards her shop, on the way, she went to Shiv Temple. Accused Naranjan Singh who was having Sota came there and caught hold of her from her back, and when she raised raula, Naranjan Singh gave her Sota blows as a result of which, she received injury on left elbow. Naranjan Singh again caught hold of her throat and started rotating her. The accused had also torn her clothes and did wrong acts with her. On her screaming, one Dr. Rajinder Kumar came at the spot and on seeing him, Naranjan Singh fled away from the spot alongwith Sota and while leaving he gave threats to kill her.

On the basis of the above statement, FIR No.94 dated 6.5.2015 under Sections 323, 354, 506 IPC was registered at Police Station Tanda, Hoshiarpur. After completion of investigation of formalities, the accused was charge-sheeted for the aforesaid offences to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined 6 witnesses and thereafter, statement of accused under Section 313 Cr.P.C. was recorded wherein he pleaded innocence.

Finding the testimonies of PW1 Complainant Surinder Kaur

and PW2 Dr. Rajinder Kumar trustworthy and considering the other material evidence available on record, the trial Court vide its judgement dated 3.11.2016 convicted the accused and imposed the sentence as noticed above.

Aggrieved against the aforesaid judgment of conviction and order of sentence, an appeal was carried by the convict before the Addl. Sessions Judge, Hoshiarpur. The appellate Court while dismissing the appeal against conviction proceeded to alter the sentence by ordering to release him on probation for a period of 6 months. The appellate Court also directed the convict to pay ₹8000/- towards litigation cost, out of which a compensation of ₹6000/- was ordered to be paid to the complainant.

Hence, the present revision petition by the complainant.

Learned counsel for the petitioner contends that the appellate Court has erred in releasing the convict on probation. PW1 petitioner Surinder Kaur and PW2 Dr. Rajinder Kumar were firm while making their statements. The trial Court categorically held that no doubt can be raised on the version of PW1 and PW2. It has been lastly argued that as the sentence awarded by the trial Court was already on lower side, the appellate Court could not have released the convict on probation.

I have heard learned counsel for the petitioner and perused the case file carefully.

A perusal of the judgement dated 3.11.2017 reveals that the appellate Court while releasing the convict-respondent on probation, has considered the fact that the respondent is not a previous convict and the parties are residents of the same village and therefore, gave an opportunity

to the convict to reform himself. This Court is of the opinion that the appellate Court has taken into consideration the nature of offences and other attending circumstances, before giving the benefit of probation which is already over, therefore, no ground is made out to interfere with the impugned judgement, particularly when the concession has not been misused by the convict. The appellate Court further struck a balance by awarding adequate compensation to the complainant.

The revision fails and it stands dismissed.

January 14, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No