

Form No.J(1)

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION**

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.A. 473 of 2004

**Sukla Mukherjee
versus
Mrs. Mani Devi Sharma & Ors.**

For the Appellant : Mr. Somopriyo Chowdhury.

For the State : Mr. Md. Anwar Hossain,
Ms. Manisha Sharma.

Heard On : 26.04.2022.

Judgement On : 26-04-2022.

Tirthankar Ghosh, J. :

The present appeal has been preferred by the complainant being aggrieved by the judgment and order dated 17.02.2004 passed by the learned Sub-Divisional Magistrate, Alipore in Complaint Case No.C-214 of 2000 wherein the learned court was pleased to acquit the accused persons in respect of the offences alleged under Sections 504/506 of the Indian Penal Code.

As none appeared on behalf of the appellant, Mr. Somopriyo Chowdhury, learned advocate empanelled with the High Court Legal Aid Services Authority was directed to represent the appellant. Mr. Chowdhury has efficiently placed the appeal, drawn the attention of this Court to the relevant evidences as also drew the illegalities of the learned SDJM while passing the order of acquittal.

Ms. Sharma, learned advocate, appears on behalf of the State.

I have considered the judgment and order passed by the learned Sub-Divisional Judicial Magistrate. In fact, the learned Judicial Magistrate being the trial court scanned the evidences of all the witnesses being PW 1 Smt. Sukla Mukherjee (complainant), PW 2 Nani Gopal Mukherjee, PW 3 Adhir Talukdar (constable), PW4 Pabitra Ranjan Mitra (A.S.I. of police) and PW 5 Swapan Chowdhury (A.S.I. of police), who recorded the G.D. Entry No.1252 in writing. The document which has been marked as Exhibit-1 in this case.

The judgment of the learned trial court reflects that so far as the incident is concerned, the complainant PW 1 and PW 2 have corroborated the incident which is referred to. So far as the contentions relating to the abuse is concerned and the particular version of the derogatory/filthy language which has been used are there in the evidence of both the witnesses. However, what weighed with the learned

trial court is the document, exhibit-1 which is the General Diary Entry. In Exhibit-1, it has been narrated categorically that the tenant Basant Lal Sharma picked up quarrel, used slang language over the issue of various type of family matters. It has also been alleged that Ms. Sharma, wife of Basant Lal Sharma, misbehaved with the informant and used slang language over the issue relating to tenancy. The particular language which has been used in evidence before the court of law was never there in the G.D. Entry which has been marked as Exhibit-1. Learned trial court took into account also that a civil suit being Case No.218/99 was pending between the parties and, as such, arrived at his finding that the allegations so far as the abuse is concerned could not be proved beyond doubt and, as such, acquitted the accused persons.

Mr. Chowdhury, learned advocate appearing for the appellant vehemently contended that the usual practice is that the police authorities reduce the version of complaint while drafting the General Diary Entry in the register maintained at the police station and there is every probability that the exact words narrated by the complainant may not be recorded in the General Diary.

Be that as it may, a court of law is to proceed on the basis of the materials available before it and, as such, I do not think that any illegality was committed by the learned Magistrate while assessing the

evidence and arriving at his finding of acquittal in view of the materials placed before the court.

Having regard to the same, I am of the opinion that no interference is called for in respect of the judgment and order dated 17.02.2004 passed by the learned SDJM, Alipore in Complaint Case No.C-214 of 2000.

Accordingly, the appeal being CRA 473 of 2004 is dismissed.

Ms. Sharma, learned advocate appeared for the State, and also earlier represented the State on 11.04.2022, but in the cause title of the order-sheet, her name has been inadvertently omitted, although in the contents of the order her name is reflected.

Let her name be incorporated in the original order dated 11.04.2022.

Department is directed to incorporate the necessary corrections in the order dated 11.04.2022.

Let the lower court records be sent down to the learned court below immediately.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Tirthankar Ghosh, J.)

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