

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**216****CRM-A-1488-MA-2016 (O&M)****Date of order: 24.08.2023****Darshan Devi****.....Appellant(s)****Vs.****State of Punjab & Others****.....Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr. S.K. Choudhary, Advocate
for the appellant.

Mr. Karambir Singh, AAG Punjab.

Nidhi Gupta, J.

Challenge in the present appeal is to the judgment and order of acquittal dated 27.11.2015 passed by learned Additional Chief Judicial Magistrate, Pathankot whereby respondents No.2 to 5 herein have been acquitted of the charge under Sections 354, 323, 382, 356, 506 and 120-B IPC.

2. Learned counsel for the appellant submits that the appellant is an old pardanshin lady. It has been alleged that on 12.05.2011 at about 6.30 PM, accused No.1 and 2 (respondents No. 2 and 3 herein respectively), restrained the complainant/appellant and her son Manpreet Singh from cutting the edge of a tree lying in a pit. Accused No.1 and 2 came to the spot with criminal intention and used criminal force. They restrained complainant from doing so and accused No.2 raised lalkara to catch hold of her and not to let her go. It has also been alleged by the complainant that accused No.1 in connivance with accused No.2 with an

intention to outrage her modesty, removed her shirt and attempted to remove her lower and also kissed her on her face in public and passersby witnessed the same.

3. It has also been alleged that in the meantime, accused No.3/respondent No. 4 and accused No.5/respondent No.5 herein, also came there. Manpreet son of complainant requested them to leave his mother but they refused to do so and started beating him. Accused No.3 gave dang blow on the head of the son of complainant, accused No.4 gave fist blows on his neck, accused No.2 gave fist blows on his upper back of left shoulder and accused No.2 and 5 gave kick blows on the lower back of her son.

4. It has also been alleged that accused No.5 was also holding dang and gave dang blow on complainant's head. Accused No.2 gave fist blow on the back of her neck, accused No.4 gave kick blow on her left knee. Accused No.3 gave blow on her upper back. During this incident the accused also snatched her golden earring from the left ear and golden chain weighing 1.5 tolas. They also threatened to kill her and her family if they disclosed this incident. She and her son went to CHC Narot Jaimal Singh and got themselves medico legally examined. She and her son reported the matter to the local police and DDR No.25 dated 14.05.2011 was registered under Section 323 IPC but the police did not take any action against the accused, hence, the present complaint.

5. Learned counsel for the appellant submits that the appellant had led comprehensive and cogent evidence in support of her

allegations. However, the learned trial Court has ignored the same and has instead focused on the minor contradictions in the case put forth by the appellant. It is prayed that accordingly, the impugned order be set aside.

6. I have heard learned counsel for the appellant.

7. Perusal of the impugned order reveals that the learned trial Court has found that though the appellant/complainant has mentioned the date of alleged incident to be 12.05.2011 in respect of which DDR No.25 dated 14.05.2011 (Exhibit C1) was lodged, yet complaint was registered only on 02.06.2011. Learned trial Court has further after appraisal of the entire facts, pleadings, submissions, evidence (both oral and documentary), returned the following findings: -

“16...Perusal of Ex.C-1 also reveals that she has nowhere stated that the accused were armed with dangs or any of the accused has given dang blow to her son or to her. She has only stated about the fist blows given to her and her son by the accused. She has also not stated anything about tearing of her clothes, pressing of her breasts, opening of the string of her salwar or any attempt on the part of the accused to commit rape on her or taking away her earring or golden chain. Thus, there are also material variations in her statements got recorded with the police and in the Court as well as allegations leveled in the complaint.

17. Perusal of MLR of Manpreet Singh, son of complainant reveals that there was complaint of pain over head, neck, low back, left shoulder and multiple bruises on right scapular region but no injury on his left arm as stated in the evidence has been shown in his MLR. Perusal of MLR of complainant reveals that there were four injuries of complaint of pain over head, neck, left knee joint and multiple bruises on left infra

scapular region. The injuries on the person of complainant and her son as explained in Ex.C-1 do not correspond with the injuries on their person as stated in their evidence in the complaint. The same also do not find any corroboration from the medical evidence...

19. Complainant Darshana Devi in her cross-examination has also deposed that they had gone to the police station in the evening on the same day but had got recorded statement with the police on the third day when DDR was recorded. She has also deposed that the complaint was filed by them in the Court after 20 days of getting her statement recorded with the police. The alleged occurrence took place on 12.05.2011, whereas, she reported the matter to the police on 14.05.2011 and present complaint has been filed by the complainant on 02.06.2011. She has also not explained as to why the matter was not reported to the police immediately and why the complaint case was not filed at the earliest. On account of this delay, it not only gets bereft of the advantage of spontaneity, danger creeping in of the introduction of exaggerating account or a concocting story as a result of deliberation and consultation and for these reasons, it was essential for the complainant to satisfactorily explain this delay but this inordinate delay has not been explained by her satisfactorily....”

8. From the above findings, it is established that there is great variance in the story first put forth by the appellant in the DDR No.25 of 14.05.2011 (Exhibit C-1), then in her complaint, and then in her deposition subsequently. It is clear that at each step the appellant has tried to improve upon her first version of events. Moreover, admittedly, the injuries suffered by the complainant and her son do not match with the injuries alleged to have been inflicted upon them by the accused.

Admittedly, too, there was delay on part of the complainant in approaching the police.

9. Learned counsel for the appellant is unable to dispute the above said findings or show anything to this Court to controvert the same let alone give any satisfactory explanation. Accordingly, I find no ground is made out to interfere with the impugned order of acquittal. Present appeal accordingly stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

24.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No