

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

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CRR-950-2022 (O&M)

Date of Decision:22.11.2023

Harminster Kaur

...Petitioner

Vs.

Harpreet Singh and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Baljinder Singh Khaira, Advocate, for the petitioner.

N.S.Shekhawat J.

1. The present petition has been preferred against the judgment dated 04.01.2022 passed by the Additional Sessions Judge, Patiala and judgment dated 31.08.2017 passed by the Judicial Magistrate 1st Class, Nabha, whereby, the respondents were ordered to be acquitted.

2. In the present case, the FIR was registered on the statement of Harminster Kaur wife of Jarnail Singh resident of Village Khanaura, Police Station Bhadson, District Patiala, wherein the complainant has alleged that on 20.5.2014 at around 7.15 A.M, she was coming back after sending her son Randeep Singh to school and when she reached in front of the house of respondent/accused Harpreet Singh, respondent/accused Harpreet Singh started abusing her in the name of mother and sister. Thereafter, respondent/accused Harpreet Singh gave a fist blow on her mouth and his wife Sarabjit Kaur and mother Rachpal Kaur respondent/accused caught hold of her from her hair. Respondent/accused Rachpal Kaur gave fist blows

on her face and head. It is further alleged that people gathered on the spot after hearing hue and cry and accused persons ran away. The complainant further alleged that respondents/accused Shinder Singh, Harpreet Singh, Sarabjit Singh and Rachpal Singh gave beatings to her and took her to her house. It is further alleged that they gave severe beatings to her in her house also. It is further alleged that her maternal uncle Mukhtiar Singh resident of Village Tolewal raised Lalkara from the roof top and thereafter, the above named accused ran away from the spot. The complainant further alleged that her upper tooth has been dislocated on account of the fist blow given by the respondent/accused Harpreet Singh. It is further alleged that the motive behind the attack is that she has taken in adoption grandson of her maternal uncle Mukhtiar Singh, whereas, accused persons want that she should take respondent/accused Harpreet Singh in adoption. On the basis of this statement, FIR was registered against the accused. Investigation was initiated. Statements of the witnesses were recorded. Accused were arrested. Relevant documents were also taken into police possession. After completion of the investigation and other necessary formalities, challan under Section 173. Cr.P.C was presented against the accused in the Court.

3. The respondents were ordered to be charge sheeted for the offences punishable under Sections 323, 341 and 34 IPC, to which, they pleaded not guilty and claimed trial.

4. During the course of trial, the prosecution examined complainant Harminder Kaur as PW1, Mukhtiar Singh, eye witness

as PW2, ASI Nazar Singh as PW3, LC Manjit Devi as PW4, Dr. Jaspinderjit Kaur as PW5, Dr. Gurwinder Singh as PW6, Dr. Anju as PW7 and C. Sandeep Singh as PW8 and, thereafter, the evidence of the prosecution was ordered to be closed.

5. After the closure of the prosecution evidence, the statement of the respondents/accused were recorded under Sections 313 Cr.P.C. and the entire prosecution evidence put to them. However, they pleaded their innocence and denied all the evidence against them. It was averred in the statement that the complainant suspected that they had helped the witnesses of a case under Section 376 IPC, which was registered against Jarnail Singh, husband of the complainant. As a result of which, the respondents had been falsely implicated to defame them in the village. The prosecution had examined Mukhtiar Singh as the only eye witness, who was the real maternal uncle of the complainant and was planted in the present case. In fact, no fight had actually taken place in the village and the complainant had fallen on the ground in her house. However, she concocted the story with the help of her husband and Mukhtiar Singh, her maternal uncle.

6. After holding the trial, the respondents were ordered to be acquitted by the Court vide judgment dated 31.08.2017 passed by the Court of Judicial Magistrate 1st Class, Nabha and even the appellate Court vide judgment dated 04.01.2022 had affirmed the said judgement.

7. Learned counsel for the petitioner argued that both the

learned Courts below misconstrued the evidence led by the prosecution. In fact, the complainant examined herself as PW1 and her testimony was supported by Mukhtiar Singh PW2, her maternal uncle. It was further submitted that in the rukka Ex.PW5/C sent by the doctor, the date was wrongly mentioned as 11.05.2014 instead of 20.05.2014 and it was mentioned inadvertently. Even, there was no delay in reporting the matter to the police and wrong inference has been drawn from the same. Apart from that, the injury of lose of tooth found mentioned in the MLR Ex.PW5/A and simply because the injury had been declared to be simple by the doctor, could not demolish the case of the prosecution. Apart from that the Courts have taken into consideration the minor contradictions in the statements of the various prosecution witnesses and the benefit of doubt has been wrongly extended to the respondents.

8. I have heard the learned counsel for the petitioner and perused the record.

9. In the present case, the entire prosecution case is based on the testimonies of PW1, complainant/petitioner and her maternal uncle Mukhtiar Singh, eye witness. It is apparent that the parties were inimical towards each other and both the witnesses belong to the same family. The Courts below are justified in observing that in the absence of independent corroboration, the prosecution evidence was liable to be disbelieved. Even, as per the statements of the prosecution witnesses, many villagers had gathered at the spot. However, no statement of any independent witness was forthcoming

during the course of trial. Apart from that, it was also apparent that the rukka Ex.PW5/C was sent to the police at 10.00 a.m. on 20.05.2014 by the medical officer. However, the endorsement has been made by the medical officer, which was allegedly made at 03.30 p.m. on 11.05.2014. This is a glaring fact, which makes the prosecution case highly doubtful. Apart from that, the Courts below had noted the material discrepancies in the prosecution evidence in detail. This Court has perused the findings recorded by both the Courts below and found no reasons to deviate from the same. Learned counsel for the petitioner could not point out any perversity, material irregularity or illegality in the impugned passed by the trial Court as well as first appellate Court. Thus, the present petition sans merits and deserves dismissal by this Court.

10. Dismissed.

11. All pending applications, if any, are disposed off, accordingly.

22.11.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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