

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A 932/2019

Date of decision: 02.08.2023.

Bhawna

.....Appellant

Vs.

Maya Devi and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sumit Sangwan, Advocate for the appellant

Nidhi Gupta, J.

Appellant is aggrieved by the judgment dated 15.2.2019 passed by Id. JMIC, Charkhi Dadri whereby the complaint filed under Sections 323, 325, 452, 354, 506 and 34 IPC was dismissed and respondents were acquitted.

Facts of the case in brief, as alleged by the appellant in her complaint, are that on 15.08.2014 the appellant was working in her field and at that time the accused came there armed with an axe and dandas and they started to give beatings to mother-in-law of the complainant namely Nirmala Devi wife of Babu Lal. They gave injuries to her on head, hand and ears and also broke her teeth. The complainant after hearing the noise ran towards the spot and witnessed the whole incident. Accused Karambir also assaulted the injured with intent to outrage her modesty and used criminal force for the same. More so, he used vulgar behaviour with her. On hearing her shouting the sister-in-law (devrani) and other relatives also came there and upon seeing them the accused ran away from the spot along with their weapons. The accused also threatened to kill the mother-in-law of the complainant by saying that today you escaped but in future we would kill you. The reason behind this is that the accused persons are inimical towards the complainant and her

family due to property dispute. Thereafter arranging a vehicle, the mother-in-law of the complainant namely Nirmala Devi got admitted in GH Dadri and MLR was conducted on 16.08.2014 bearing No. AKJ1942014. Regarding this incident an FIR was registered bearing No.455 dated 16.08.2014 under Sections 323, 452, 506, 34 IPC but Section 325 was not added. As despite repeated requests and visits, the police did not lodge the FIR under Section 325, so the appellant has filed the present complaint.

Ld. Counsel for the appellant submits that vide impugned judgment ld. Trial court has dismissed the complaint and acquitted the respondents. It is submitted that no cogent reasons have been given by the ld. Trial court while acquitting the accused.

Heard ld. Counsel for the appellant.

Findings of the ld. Trial court as contained in the impugned judgment are as follows:-

“8. During arguments, it was admitted that regarding the incident in question, on the basis of statement of Nirmala, a case FIR No.455 dated 16.08.2014 under Section 323, 452, 506/34 of I.P.C. was registered in Police Station Sadar Dadri. It is admitted that Nirmala is mother-in-law of complainant Bhawna. It was further admitted that during investigation of the case FIR No.455 dated 16.08.2014, accused Maya Devi, Rakesh Devi and Karambir were found innocent. Though, challan against accused Ramgiri was filed, however, accused Ramgiri has died and proceedings against her have been

dropped. It creates reasonable doubt on the story of complainant.

9. CW-2 Bhawna complainant has alleged that the incident took place inside her house. However, CW-5 ASI Sita Ram has clearly deposed in his cross-examination that the incident took place in rasta (passage). CW-2 Bhawna complainant has alleged that accused Karambir tried to outrage her modesty. However, perusal of CW5/A copy of complaint moved by Nirmala (mother-in-law of complainant) shows that she has nowhere alleged that accused Karambir tried to outrage modesty of Bhawna. It is also pertinent to note that CW-4 Nirmala has deposed in her cross-examination that complaint (Ex.CW5/A) was written by her daughter-in-law (Bhawna). In the facts and circumstances, the story of complainant is doubtful.

10. Admittedly, a cross-case was also registered regarding the incident in question. Perusal of documents placed on record clearly shows that accused Ramgiri also suffered injuries in the alleged incident. Accused have also tendered medico-legal report Ex.D2 on record. The medico-legal report (Ex.D2) is dated 15.08.2014 at 08:00 PM with history of assault. There are injuries on the body of accused Ramgiri. The nature of injuries are lacerated wound. It cannot be said that injuries on the body of person accused are self-inflicted. The omission on the part of the prosecution to satisfactorily explain the injuries on the person of accused assumes great

importance. The prosecution has failed to explain the injuries on the body of person accused. Hence, the prosecution has suppressed the genesis and the origin of the occurrence and thus not presented the true version. In this circumstance, the accused are entitled to benefit of doubt. Relied upon **Gurdeep Singh Vs. State of Punjab, 1985(1) R.C.R. (Criminal) 343; Jasbir Singh and another Vs. State of Punjab, 1985(2) R.C.R.(Criminal) 156; Rajinder Singh Vs. State of Punjab, 2004(4) R.C.R.(Criminal) 904; Sultan Singh and another Vs. State of Haryana, 1999(2) AICLR 65; Dharam Singh and ors. Vs. State of Punjab, 1984(1) R.C.R.(Criminal) 212.**

11. In the instant case, the prosecution has failed to prove its case beyond reasonable doubt. Accused are entitled to benefit of doubt. Accordingly, accused are acquitted of the charge framed upon them in this case. Case property, if any, be disposed of as per rules after expiry of period of appeal/revision. File be consigned to the record room after due compliance.”

Ld. Counsel for the appellant is unable to dispute or convert the above said findings, or even give any explanation therefor.

Dismissed.

02.08.2023.
Joshi

(Nidhi Gupta)
Judge