

## IN THE HIGH COURT OF PUNJAB &amp; HARYANA AT CHANDIGARH

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CRM-A-286-2021 (O&amp;M)

Date of order: 23.08.2023

Kulwant Kaur

.....Appellant(s)

Vs.

State of Punjab &amp; Others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Munish Garg, Advocate  
for the appellant.

Mr. Kunwarbir Singh, AAG Punjab.

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Nidhi Gupta, J.

Challenge in the present appeal is to order dated 29.01.2021 passed by learned Additional Chief Judicial Magistrate, Barnala in complaint filed by the appellant under Sections 323, 324, 354, 354-B, 506 and 34 IPC registered at Police Station Rureke Kalan, whereby respondents herein have been acquitted.

2. Learned counsel for the appellant submits that the appellant is a household lady, who does labour work. She also looks after her husband as he is short-sighted. On 25.06.2017, respondent No.3 Head Constable Karamjit Singh had called the appellant in the Police Station at 10am where the respondents No.2 to 4 were also present. When the appellant questioned respondents No.2 to 4 as to why she had been summoned to the Police Station, they told her that the appellant is involved in fleeing of one Sarabjit Kaur who is mother of three children and who has fled away with Jeewan Singh residents of Pharwahi. It is submitted that

thereafter, the appellant was tortured and beaten by the said respondents No.2 to 4. She was given kick blows and slaps and even her clothes were torn to outrage her modesty. Due to slap delivered on her ear by the respondent No.3, the appellant is now unable to hear. It is submitted that the appellant was given electricity shock in the police station and even no lady Constable was present there. On 27.06.2017, the appellant was taken to the hospital by her family but she was turned away from there due to the undue influence exercised by the respondents No.2 to 4. Thereafter, on 30.06.2017, the appellant moved application (Exhibit C2) before learned Additional Chief Judicial Magistrate to get herself medically examined on basis of which MLR (Exhibit C1) dated 30.06.2017 was prepared. It is submitted that it is in these circumstances that the appellant registered the present complaint under Sections 323, 324, 354, 354-B, 506 and 34 IPC.

3. Learned counsel further submits that the learned trial Court is in patent error in acquitting the accused as in doing so the learned trial Court has failed to take into account the appellant's version whereby it has been specifically alleged that the appellant was beaten up by the police officials/respondents No.2 to 4 herein and it is for this reason that FIR was not registered in the matter. It is submitted that learned trial Court also failed to appreciate that even the doctor had refused to examine the appellant when she went to the hospital; no lady constable was present when the appellant was interrogated in the police station; all the documentary and oral evidence led by the appellant have not been considered by the learned trial Court; the appellant is a poor lady who has

been maltreated and harassed by the police officials who are influential. It is accordingly prayed that the impugned judgment of acquittal be set aside.

4. I have heard learned counsel for the appellant.

5. Perusal of the impugned judgment shows that after appraising and considering the entire evidence and testimonies on record, the learned trial Court has returned the following findings which are reproduced hereinbelow:-

*“Complainant examined one Dr. Rohit Kalia who examined the complainant on 30.06.2017 and found following injuries:-*

*1. Complain of pain in the parital region of scalp in its entire extent difuse in nature tenderness present. Advise Xray head.*

*2. Complain of pain in both ears. Patient complain of decreased hearing. Advise ENT opinion.*

*3. Bruise 1 x 1 cm present just lateral to right eye. Erythema present. Tenderness present. Advised X-ray*

*4. Bruise 1 x 1 cm just below to right eye. Reddish blue colour Tenderness present. Swelling present. Advised X-ray.*

*5. Bruise 2 x 1 cm on the left scapular region tenderness present. Bluish colour. Advised X-ray.*

*He proved the MLR. In cross-examination he stated that he has brought the OPD register and there is no entry in the name of Kulwant Kaur who come present in the hospital on 27.06.2017.*

*He further replied that whenever patient comes to hospital, a entry in OPD register is made. He admitted that no dimension or shape is mentioned against the injury no. 5 and according to MLR Ex.C1 there is no injury on the back of complainant. There may be many reasons for tenderness. Injuries no. 1 and 2 are complain of pain as told by the complainant/ injured and there*

is no external mark of injury with regard to injuries no. 1 and 2 and he further admitted the fact that if patient complains about pain then doctor cannot say if it is actually occurring or not and he prescribes the medicine accordingly. He is not having opinion of any ENT department. According to MLR there is no problem of ear mentioned in it because he referred the patient. Patient never showed him any report. No X-ray report is attached with his report. He cannot say definitely with which weapon the injuries were inflicted. It is an admitted fact and proved that the complaint was lodged in the police station by someone with regard to elopment of a lady with her paramour in which present complainant Kulwant Kaur was called. The said document is Ex.D1 on file which is signed by Kulwant Kaur on 23.05.2017 and she was called on 24.05.2017 at 09:00 AM in the police station on application filed by Bakshir Singh. According to complainant, she was called on 25.05.2017 which was corrected later on as 25.06.2017. She did not get herself medically examined on 25.06.2017 or 26.06.2017. There is no record prove by the complainant that she went to hospital on 27.06.2017. MLR proved on record is pertaining to 30.06.2017. No reason is explained for delay of the same. There are improvements made by her in her statement when she appeared in court with regard to the complaint lodged/ filed in the court in writing prior to the recording of statement. No name of her son-in-law was mentioned in her written complaint that he accompanied her. Rather in cross-examination it has come on record that panchayat and panchayat members were present when she was called at police station but no said witness was examined by the complainant. So I am of the considered view that complainant failed to prove the guilt of the accused beyond shadow of reasonable doubt and failed to prove the fact that she was beaten up mercilessly by the accused in the police station

*beyond shadow of reasonable doubt as no record extends favour to her neither medically nor oral evidence. So the present complaint is dismissed and all the accused are ordered to be acquitted from the charge framed against them.”*

6. Learned counsel for the appellant is unable to dispute the above said findings of the learned trial Court. It is evident from the record that the alleged date of incident is 27.06.2017 whereas MLR is of 30.06.2017. It has been stated by the appellant that she had gone for MLR on 27.06.2017. But no record in the form of OPD Ticket has been produced by the appellant to show that she had indeed gone for her MLR on 27.6.2017. Further, even as per testimony of prosecution witness Dr. Rohit Kalia, he has admitted in cross-examination that there is no entry in the name of the appellant in the hospital for 27.06.2017. Moreover, even the injuries on the person of the appellant also could not be proved to have been caused by the respondents no. 2 to 4. Even no X-ray results, or ENT report were produced by the appellant. Admittedly, there is delay of five days in making the complaint.

7. In view of above discussion, no ground is made out to interfere in the impugned order, present appeal accordingly stands **dismissed.**

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

**23.08.2023**  
Sunena

**(Nidhi Gupta)**  
**Judge**

**Whether speaking/reasoned**  
**Whether reportable**

**Yes/No**  
**Yes/No**