

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1363 OF 2019
Date of Decision: 24.05.2023

Mamta Sharma

.... Petitioner

Versus

Om Parkash and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.B.S.Pathania, Advocate for the appellant.

SANJEEV PRAKASH SHARMA, J (ORAL)

This is an appeal preferred against the order dated 19.03.2019 passed by the learned Judicial Magistrate First Class, Gurdaspur whereby the complaint registered by the petitioner was dismissed.

The appellant has preferred a complaint before the JMFC, Gurdaspur stating that she belongs to Brahmin family and respondent belongs to Mahasha caste and in order to lower down the reputation and to expunge her family from the village they have assaulted her on 07.05.2012. The complaint has been made against the accused as well as the mother and sister.

The learned Magistrate has examined the complaint and has found several discrepancies in her statement made in the complaint viz a viz statement made in the Court. It is also noticed that there have been several improvements made by her in the statement recorded in the Court. The versions as depicted by the complainant was not found to be consistent with the statement of her husband and brother in law who were stated to be present at the time of incident. Later on in the cross examination the complainant herself stated that her brother in law was not present at the time of incident. Whereas brother-in-law in his statement states that he was present. There is gross inconsistency amongst the different statements

made by her husband, brother-in-law and the complainant which have been noticed by the learned Magistrate.

This Court also finds that the other aspects regarding the damage to house hold articles and windows of the house of the complainant were also not found to be proved. The allegation of molestation was also found to be false. Material contradictions in the statements made in the complaint and the examination in chief with regard to the allegations against Raja were noticed in the complaint she levels allegations of Raja of having hugged her and kissed her, in chief she alleges him to have undressed and ejaculated in her mouth. She also asserts of all accused of having undressed herself which found to be false by the learned Magistrate. As the two accused are females one is the mother of the other co-accused while the other Babbu is the daughter of the one of the accused Raja and sister of accused Sanjeev. Thus mother, father, daughter and sons have alleged to have her undressed. The allegations of the father and son having both molested the complainant have been found to be fully improbable especially in front of mother and sister. She also stated of her husband having been present who does not mention about such allegation.

Having noticed the aforesaid, this Court finds that the appeal preferred does not have any merits and facts and the Courts order dated 1903.2019 is found to be in order and having considered the evidence no case is found to be made out against the accused.

The appeal is accordingly dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

24.05.2023
Raman

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