

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

CRR No.2933 of 2017 (O&M)

Date of Decision : 25.07.2023

Suman

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Pawan Kaushik, Advocate
for the petitioner.

Mr. Ramesh K. Ambavta, Asstt. A.G., Haryana.

PANKAJ JAIN, J.

Complainant is in revision against the judgment dated 21st of October, 2015 passed by Additional Sessions Judge, Rohtak affirming the judgment of acquittal passed by JMIC, Rohtak dated 16th of February, 2015 acquitting the respondents in FIR No.91 dated 28th of March, 2009 registered for the offences punishable under Sections 148/149/323/452/506 of Indian Penal Code, at Police Station Kalanaur, Rohtak.

2. The aforesaid FIR was registered on the statement made by the petitioner claiming that on 9th of December, 2008 while she was working in her house all alone the accused trespassed her house and started abusing her. It was claimed that accused No.1 was armed with a brick and also brought *darati*. Accused No.2 was also holding brick, accused No.3 and 5 were having *dandas*, accused No.4 was having a knife, accused No.6 was having *darati*, accused No.7 was armed with *kulhari* and accused No.8 was

having *santa*. With an intent to kill the petitioner accused No.3 and 5 gave *danda* blows on her body. Accused No.3 caused injury with brick on her waist. Accused No.1 gave brick blow on her head and later on gave *darati* blows on her arms. Accused No.6 and 8 are also alleged to have caused injuries on her body. The petitioner claims to have approached the Police Authorities on 12th of January, 2009. After Police Authorities failed to act she approached concerned Magistrate under Section 156(3) Cr.P.C. On direction of the Court the present FIR was registered. Petitioner herself appeared as PW-1 to support the allegations levelled in the FIR. Dr. Kamla Verma appeared as PW-2 to prove the medical evidence. Husband of the petitioner appeared as PW-4. IO Vijay Singh SI deposed as PW-5. Accused also led defence evidence. Trial Court found that the prosecution miserably failed to prove the allegations against the accused as the complainant was not even consistent about the date of occurrence. Trial Court further found that there were major contradictions in the statement made by the complainant/petitioner as well as her husband and acquitted the accused/respondents. In appeal preferred by the petitioner Appellate Court found that the injuries as per MLR do not support the allegations levelled by the petitioner and as per the report under Section 202 Cr.P.C. it has come on record that the parties are in thick of civil dispute. Appellate Court resultantly affirmed the judgment of acquittal.

3. I have heard counsel for the petitioner and have carefully gone through records of the case.

4. The scope of the revisional jurisdiction under Section 401 Cr.P.C. in a State case where the complainant has filed revision stands well settled by the Apex Court in **D. Stephens vs. Nosibolla (1951) 1 SCR 284** held as under :

“The revisional jurisdiction conferred on the High Court under [section 439](#) of the Code of Criminal Procedure is not to belightly exercised when it is invoked by a private complainant against an order of acquittal, against which the Government has a right of appeal under [section 417](#). It could be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest illegality or the prevention of a gross miscarriage of justice. This jurisdiction is not ordinarily invoked or used merely because the lower Court has taken a wrong view of the law or misappreciated the evidence on the record.”

The same principle was reiterated in **Logendra Nath Jha and others v. Polailal Biswas [1951 SCR 678]** wherein it was held as under :

“.....Though sub-section (1) of [section 439](#) authorises the High Court to exercise, in its discretion, any of the powers conferred on a court of appeal by [section 423](#), sub-section (4) specifically excludes the power to "convert a finding of acquittal into one of conviction". This does not mean that in dealing with a revision petition by a private party against an order of acquittal, the High Court could in the absence of any error on a point of law re-appraise the evidence and reverse the findings of facts on which the acquittal was based, provided only it stopped short of finding the accused guilty and passing sentence on him. By merely characterising the judgment of the trial Court as "perverse" and "lacking in perspective", the High Court cannot reverse pure findings of fact based on the trial Court's appreciation of the

evidence in the case. That is what the learned Judge in the court below has done, but could not, in our opinion, properly do on an application in revision filed by a private party against acquittal.....”

5. In the present case both the Courts after analyzing whole of the evidence threadbare found that the inherent contradictions in the case projected by the prosecution were enough to enure benefit of doubt in favour of the accused.

6. Ld. Counsel for the petitioner has not been able to point out any legal infirmity in the judgments passed by the Courts below that can make out sufficient ground to invoke revisional jurisdiction. Reappreciation of evidence by this Court while exercising revisional jurisdiction under Section 401 Cr.P.C. is not feasible. Resultantly, present revision petition is dismissed.

July 25, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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