

**243**

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

**CRR-4156-2017 (O&M)**

**Date of decision : 02.02.2023**

**KANHI RAM**

**... Petitioner**

**Versus**

**SUMAN & OTHERS**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Neeraj Sheoran, Advocate  
for the petitioner.

**\*\*\*\***

**JASJIT SINGH BEDI, J.**

The instant revision petition has been preferred against the judgment dated 28.04.2017 passed by the Additional Sessions Judge, Bhiwani whereby the judgment of conviction and order of sentence dated 28.09.2015 passed by the Court of Sub Divisional Judicial Magistrate, Tosham, has been set aside thereby acquitting the accused.

2. The brief facts of the case as emanating from the pleadings are that accused respondent No.1-Suman daughter of Ashok, accused (since expired) was a widow of Ram Phal son of the petitioner-complainant. As per the allegations, on 03.03.2010 at about 11.00 AM, the accused in furtherance of their common intention came into the house of the complainant and sat there. Respondent No.1-Suman, accused stated that she had to attend the marriage of her friend and demanded her gold ornaments. The complainant told her that his wife was not present in the house and she could take the ornaments later. On this, Suman and her mother Krishna started abusing him. Suman caught

hold of him and Krishna gave him kick and fist blows. The accused Ashok stated that the locks of the almirah be broken to take away gold ornaments. Thereafter, the almirah was broken and gold ornaments weighing 150 grams and Rs.8,000/- were taken away. On raising an alarm, Ram Kumar and Balbir came to the spot and saved the complainant. The matter was reported to the police but since no action was taken, a complaint under Section 323, 380, 506/34 IPC came to be filed.

On the basis of the preliminary evidence led, the accused were summoned to face trial under Sections 323, 380, 506/34 IPC.

3. In pre-charge evidence, the complainant himself appeared in the witness box as CW1. He further examined Ram Kumar as CW2 and Balbir as PW3. Thereafter, pre-charge evidence was closed by the counsel for the complainant on 21.05.2014.

4. On finding a prima facie case, charge against the accused was framed on 09.06.2015 under Sections 323, 380 and 506/34 of IPC to which, they pleaded not guilty and claimed trial.

5. In after charge evidence, the complainant CW1 and Ram Kumar CW2 were subjected to further cross-examination. The complainant did not lead any fresh evidence. After charge evidence was closed by order on 27.08.2015.

6. The statements of the accused was recorded under Section 313 Cr.P.C. The accused tendered the medical record of the accused Shri Krishan i.e. Ex.DA to Ex.DM.

7. Based on the evidence led, the accused respondents and Ashok (since expired) came to be convicted and sentenced as under:-

| Sections | Sentence    | Fine     |
|----------|-------------|----------|
| 323 IPC  | 01 year RI  | ---      |
| 380 IPC  | 02 years RI | Rs.500/- |
| 506 IPC  | 02 years RI | ---      |

8. Against the judgment of conviction, the convicted accused preferred an appeal which came to be allowed and the accused came to be acquitted vide judgment dated 28.04.2017 passed by the Court of the Additional Sessions Judge, Bhiwani.

9. The aforementioned judgment is under challenge in the present case at the instance of the petitioner/complainant.

10. The learned counsel for the petitioner contends that the case of the complainant was well-established from the evidence led by him. The judgment of acquittal had been passed on the basis of conjectures and surmises and without appreciation of the evidence on record. The accused had stolen ornaments belonging to the complainant from the almirah and had also taken away money. There was the corroborative evidence of two other witnesses substantiating the case of the complainant. He thus, contends that the judgment of acquittal be set aside and the accused/respondents be convicted and sentenced in terms of the judgment of conviction and order of sentence dated 28.09.2015 passed by the Sub Divisional Judicial Magistrate, Tosham.

11. I have heard the learned counsel for the petitioner at length.

12. Admittedly, the accused were summoned on the basis of a private complaint instituted by the petitioner/complainant and there is no

document showing that any investigation was conducted by the police regarding the present occurrence. The petitioner is the father-in-law of the accused Suman whereas, Krishna is her mother. Krishan is an uncle of Suman. In order to prove the offence under Section 323 IPC, except the oral statement of the complainant there is absolutely no documentary evidence on the file such as an MLR to substantiate his case.

As per the case of the complainant, CW1-Kanhi Ram, CW2-Ram Kumar and CW3-Balbir came to the spot after the occurrence. Therefore, they cannot be termed as eye-witnesses in the present case so as to corroborate the version of the complainant. Admittedly, at the time of the occurrence, Suman accused was the daughter-in-law of the complainant and she had a right to enter her matrimonial home. There is no evidence on the file to substantiate the fact that the accused stole any ornaments belonging to the complainant from the almirah. Nothing has been recovered from the possession of any of the accused to show that any theft of articles had taken place. Even otherwise, the complainant has not been able to establish the ownership of the ornaments, if any, in question. Therefore, Section 380 IPC has not been established beyond reasonable doubt.

Section 506 IPC has also not been established from the evidence on record. None of the accused are stated to have been carrying any weapons. Even otherwise, such allegations are very easy to level and must be accepted with great caution.

The present case seems to be an outcome of a matrimonial dispute between the parties. Suman accused was the daughter-in-law of

the complainant whose husband had died in an accident prior to the date of the occurrence. Therefore, the present proceedings seem to have been initiated with a view to pressurize the daughter-in-law and her family members.

13. In view of the aforementioned discussion, I find no illegality or irregularity in the judgment of the Appellate Court and therefore, the present petition is dismissed.

**(JASJIT SINGH BEDI)**  
**JUDGE**

**02.02.2023**  
JITESH