

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-1802-2019

Date of Decision:-19.04.2023

Babli.

.....Petitioner.

Vs.

Om Parkash & Ors.

.....Respondents.

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

Present:- Mr. Mohd. Shahid Hussain, Advocate for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has preferred by the petitioner-complainant against the judgment dated 03.06.2019 passed by Additional Sessions Judge, Sonipat whereby the judgment of conviction as well as order of sentence both dated 21.03.2018 passed by Judicial Magistrate Ist Class, Sonipat has been upheld.

2. The brief facts of the case are that the complainant moved a complaint to the CJM, Sonipat alleging therein that she was a law abiding resident of village Nandnaur, Sonapat. Accused No. 1 namely Sh. Om Parkash was her real “jeth”. Her husband had filed a civil suit against accused Om Parkash. The accused had become inimical with her (complainant) due to civil litigation. Accused Om Parkash had inflicted internal injuries to her husband due to which he had died.

In fact, the gram panchayat of the village had gifted a plot No. 28 comprising in Khasra No. 47/14 to her vide a registered gift deed. The accused Om Parkash had repeatedly threatened her for her life. He had warned her of dire consequences in case she did not leave the village. On

22.06.2014, all the accused had criminally trespassed into her house armed with wooden sticks and had threatened her to leave the village. So, she had moved an application dated 23.06.2014 before the Superintendent Police, Sonipat. She had also moved a complainant to the SSP, Sonipat on 28.06.2014 too. But, no action was ever been taken against the accused.

Meanwhile on 25.06.2014 at about 04:30 pm, all the accused had come in front of her house. They had started abusing her. She had closed the doors of her house out of fear. But, the accused broke the main door of her house. They removed bricks from the outer wall of the house & started pelting the same on her due to which she rushed inside and bolted the doors of her room. Her sons namely Rakesh and the younger one had gone on the roof. Meanwhile, the accused broke the door of her room.

Thereafter, the accused namely Meera wife of Rajbir Singh, Devi wife of Satbir and Santosh wife of Jagbir had dragged her outside her house by holding her from her hair. Accused Om Parkash, Satbir, Jagbir were armed with wooden sticks whereas Rakesh was holding a belt. Accused Rajbir gave a wooden stick blow on her back whereas Rajbir gave a wooden stick blow on her head. But, she defended the attack with her hands due to which she suffered injuries. Accused Jagbir gave a wooden stick blow on her head from the back side due to which she suffered grievous injuries whereas Rajbir had beaten her using a belt. The accused had broken house hold articles.

Thereafter, her son had made a call to the women helpline. On this, a police official had come on the spot due to which the accused managed to flee away. The aforesaid police official brought her and her brother outside the village. She was admitted at the Civil Hospital, Sonipat by her son Rakesh. However, she was referred to the PGIMS, Rohtak.

Meanwhile accused Rajbir, Meera and her son Amit had also followed her to Civil Hospital, Sonipat and had threatened her family. Legal action was sought against the accused.

3. The complainant was sent under Section 156 (3) of Cr.P.C. for registering of an FIR against the accused vide order dated 19.07.2014. Accordingly, a formal FIR No. 245 dated 29.07.2014 under Section 148, 149, 323 and 506 of the Code, 1860 was registered at Police Station, Murthal. After completion of the investigation, the challan under sections 148, 149, 323 and 506 of the Code, 1860 was prepared and filed in the court.

4. Based on the evidence led, accused Om Parkash, Devi, Dharamvir, Santosh and Meera were acquitted of the charges framed against them, whereas Satbir, Jagbir and Rajbir were convicted for having committed the offence under Sections 323 read with Section 34 IPC and were ordered to be released on probation on their furnishing probation bonds in the sum of Rs.40,000/- with one surety in the like amount each binding themselves to keep peace and to maintain good behaviour for a period of one year from the date of their conviction.

5. Against the aforementioned judgment the convicted accused filed a Criminal Appeal No.127 of 2018 whereas the complainant Babli preferred a Criminal Appeal No.115 of 2018. Both the said appeals came to be dismissed by the court of Additional Sessions Judge, Sonipat vide judgment dated 03.06.2019.

6. The aforementioned judgments are under challenge in the present revision petition.

7. The Counsel for the petitioner contends that there was sufficient evidence available on the record to convict those accused who had been acquitted as the medical evidence was in consonance with the ocular

account. In addition as the offence committed was serious in nature, the convicted accused ought to be sentenced to a term in prison as against the grant of probation.

8. I have heard the counsel for the petitioner.
9. A perusal of the record would reveal that complainant Babli-PW-3 has not levelled any specific allegations or attributed any injury to Dharamvir, Devi, Santosh and Meera. There is nothing to suggest that the commission of offence of criminal trespass because of which Section 452 IPC had been deleted during the course of investigation. Om Parkash has been attributed stick blows on her back. However, no such injury has been found as per the MLR. This raises doubt regarding the prosecution version qua accused Om Parkash. Therefore, I find no reason to interfere with the judgments of acquittal qua the said accused.

As regards the grant of probation to the convicted accused, it may be pointed out that they are the first time offenders. Both the accused party and the complainant side reside in the vicinity of each other. Therefore, to avoid further conflict in the village the release of the convicted accused on probation ought not to be interfered with by sentencing them to a term of imprisonment. Therefore, as regards the enhancement of sentence as well, I find no reason to interfere with the judgments of the courts below.

14. In view of the aforementioned discussion, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2023
Vinay

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