

248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 14.09.2023

CRM-A-1983-2019 (O&M)

Manita

..... Applicant

Versus

Jai Parkash and others

..... Respondents

CRM-A-2060-2019 (O&M)

Manita

..... Applicant

Versus

Meena and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Pawan Attri, Advocate
for the applicant.

Manjari Nehru Kaul, J.(Oral)

CRM-24073-2019 in CRM-A-1983-2019
CRM-27787-2019 in CRM-A-2060-2019

Application is allowed as prayed for and delay of 69/68 days in
filing the present application stands condoned.

Main case

This order shall dispose of above-said two applications as both of
them have arisen out of judgment dated 27.03.2019 passed by learned JMIC,
Kurukshetra. Brief facts of the case are taken from CRM-A-1983-2019.

The applicant is aggrieved against the judgment dated 27.03.2019
passed by learned JMIC, Kurukshetra vide which the respondents-accused were

acquitted of the charges framed against them.

Brief facts leading to the present application may be noticed as thus; the complainant moved a complaint dated 24.02.2013 alleging therein that accused-party had obstructed her and her family from using a shared pathway/passage. On 24.02.2013, during daytime, accused Kirna verbally abused the complainant and her mother-in-law, without any provocation. Later in the evening, around 10.30 pm, accused Jai Prakash and Kirna forcibly entered the house of the complainant in an inebriated condition. On entering the house of complainant, accused Kirna physically assaulted the complainant and also inflicted blows on her abdomen. The mother-in-law of the complainant was also not spared and was physically assaulted. As a result of the blows inflicted on her abdomen, the complainant, who was carrying a pregnancy of two months, suffered a miscarriage. When the husband of the complainant sought help from the Sarpanch, the latter refused to help him out. Resultantly, the complainant moved applications dated 02.03.2013 to the Deputy Commissioner and the Superintendent of Police, Kurukshetra. However, the police instead of coming to the rescue of the complainant colluded with the accused-party and initiated proceedings against them under Section 107/151 Cr.PC. The accused-party, after being released on bail, started threatening the complainant and her family. Accused No.3 Bala @ Bangro also extended threats to the son of the complainant including threat to commit his murder. The complainant during her pre-charge evidence examined herself as CW-1, her husband as CW-2, her mother-in-law Santosh as CW-3, and Dr. Vinod Kumar as CW-4.

3. The Court after summoning the accused and examining the material on record acquitted them of the charges framed under Sections 323, 341 and 506 r/w 34 IPC due to the material inconsistencies in the testimony of the complainant witnesses.

4. Learned counsel for the complainant has reiterated the allegations levelled by her in the complaint. It has been submitted that the Court below had erred in ignoring the severity of the allegations levelled including the miscarriage suffered by the complainant on account of the physical assault carried upon her. It has further been submitted that the Court below had gravely erred in discarding the testimony of the complainant witnesses even though the same came across as being trustworthy.

5. Heard learned counsel and perused the relevant material on record.

6. It is a matter of record that the complaint in question was filed on 21.05.2013 i.e. after three months of the date of alleged occurrence i.e. 24.02.2013. A perusal of the testimony of the witnesses, who stepped into the witness box on behalf of the complainant and as well the deposition of the complainant herself does show many material inconsistencies, which casts a shadow of doubt on the truthfulness of the version of the complainant. As per the allegations levelled in the complaint, the accused-party had man-handled the complainant and inflicted blows on her abdomen. However, while stepping into the witness box as CW-1 she materially improved upon the initial version brought forth by her by deposing that it was accused No.1-Jai Prakash, who had pushed her mother-in-law and pulled her hair while accused No.2 Kirna had inflicted fist and kick blows; accused No.3 Bala had also physically assaulted

the complainant party. Furthermore, allegedly the complainant suffered a miscarriage in the occurrence in question as a result of the kick blows inflicted on her, however, strangely the complainant did not even get herself medically examined on the date of alleged occurrence i.e. 24.02.2013 but after three days of the alleged occurrence. This abnormal conduct of the complainant indeed cast a shadow of doubt as to whether the complainant had suffered a miscarriage on account of the alleged physical assault carried upon her or for reasons unconnected with the alleged occurrence. Had she indeed been inflicted blows on her abdomen, it is highly improbable that she would have not rushed and sought immediate medical help. The husband of the complainant as per his own deposition given as CW-2 was not even a witness to the occurrence as he had arrived at the place of occurrence after the accused had fled away. No independent witness from the village stepped into the witness box to corroborate the version of the complainant despite the fact that the occurrence in question had taken place in a thickly populated area, which further raises a big question mark qua the authenticity of the allegations levelled by the complainant.

7. This Court in the wake of the above discussions, has no hesitation in concurring with the judgment dated 27.03.2019 passed by the Court below to the effect that the complainant had failed to substantiate the allegations levelled in the complaint. Accordingly, the present application(s) stand dismissed.

14.09.2023
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No