

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

CRM-A-192-2023 (O&M)
Date of decision: 10.04.2023

Gurdev Kaur

Versus

.....Applicant/appellant

Beant Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vivek Singla, Advocate
for the applicant/appellant.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-9091-2023

For the reasons mentioned in the application, the same is allowed and delay of 18 days in filing the leave to appeal is condoned.

CRM-A-192-2023

The applicant-complainant (hereinafter referred to as 'the complainant') is impugning the judgment and order dated 14.07.2022 passed by learned Judicial Magistrate 1st Class, Barnala vide which the respondents-accused were acquitted of the charges under Sections 447/506 of the IPC and were convicted under Sections 323/120-B of the IPC and released on probation.

The case as set up by the complainant in the complaint may be noticed as thus. The husband of the complainant namely Ralla Singh was owner in possession of 04 acres of land of "Harijan Society" (hereinafter referred to as 'the Society') and after his death, besides his wife i.e. the complainant, his 03 sons i.e. respondent No.1-accused Beant Singh, respondent No.3-accused Bant Singh and Santokh Singh @ Gora and his 05 daughters were left behind as his legal heirs.

Santokh Singh @ Gora one of the sons of the complainant had been residing with her and also taking care of her. The elder son of the complainant i.e. respondent No.1-accused Beant Singh had been illegally cultivating land in excess of his share. Even though the complainant, time and again, requested accused Beant Singh not to do so, however, it fell on deaf ears. On 22.05.2016 at about 05:00 P.M., accused Beant Singh in connivance with co-accused forcibly entered into the share of the land belonging to the complainant. When the complainant tried to restrain the accused, she was inflicted a *Dasta* blow on her right as well as her left thigh by accused Beant Singh. Accused Beant Singh also inflicted a third blow on the hip joint of the complainant besides giving a blow on her leg as a result of which the complainant fell down. Other accused also inflicted injuries on the person of the complainant, by giving her brick blows. On an alarm being raised, the son of the complainant, Santokh Singh, along with a number of other persons came to the spot, however, all the accused on seeing them, fled away from the spot along with their respective weapons.

Learned counsel for the complainant *inter alia* contends that the Court below had erroneously acquitted the respondents accused under Sections 447/506 of the IPC even though there was ample cogent evidence led against the accused persons. He further submits that the accused, though were convicted under Sections 323/120-B of the IPC, however, the Court gravely erred in releasing the accused convict on probation which thus deserved to be set aside and the accused be sentenced to the maximum for committing the offence under Sections

323/120-B of the IPC.

I have heard learned counsel and perused the relevant material on record.

A perusal of the impugned judgment reveals that the name of the husband of the complainant is not mentioned in any of the revenue records pertaining to the land being cultivated by the parties. No evidence much less documentary was led by the complainant to show as to how she and her children had come into possession of the land in question. Moreover, it is the admitted case of the complainant herself that she and her children including the accused were in joint possession of the land in question, therefore, the ingredients to attract the mischief of an offence under Section 447 of the IPC are clearly missing in the case in hand. The learned Court below cannot thus be faulted with for recording an acquittal under Section 447 of the IPC against the accused.

Coming next to the acquittal of the respondents-accused under Section 506 of the IPC, no evidence was brought forth by the complainant in support of her submissions that the respondents accused had extended any threats to her. It is a matter of record that none of the complainant witnesses while stepping into the witness box even by way of a whisper deposed qua any of the accused extending threats to the complainant.

The occurrence in question took place in the year 2016. The injuries inflicted on the person of the complainant were admittedly simple in nature. It needs to be emphasised that the ultimate goal of punishment in a modern civilized society is to attempt reformation of

the offenders. It may not always be necessary in each and every case to incarcerate the offender, if he or she has had an opportunity to repent for his or her wrongs. Admittedly, the complainant and the accused are immediate family members. Hence, in the facts and circumstances, and keeping in view the nature of offence and injuries inflicted, this Court does not find any illegality or infirmity in the impugned judgment and the order passed by the Court below vide which the respondents accused were ordered to be released on probation.

Accordingly, the instant leave to appeal being devoid of any merit is dismissed.

10.04.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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