

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

CRR-3072-2019 (O&M)

Reserved on :- 26.07.2023

Date of Decision : 10.08.2023

Santosh Devi

....Petitioner

VERSUS

Ashok and Anr.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.S.Walia, Advocate for
Mr. B.S.Walia, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana
For respondent No.2.

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ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred by the complainant challenging the judgment dated 12.06.2017 passed by the Judicial Magistrate, Ist Class Faridabad, whereby the accused was acquitted of the charges framed against him. The complainant preferred an appeal before the Court of Additional Sessions Judge, Faridabad, which is also dismissed vide judgment dated 02.08.2019 and the judgment dated 12.06.2017 passed by the Trial Court was upheld.

2. The brief facts relevant to the present *lis* are that a complaint was received from a lady (hereinafter referred to as 'X') stating that on 27.11.2012 at about 12.00 clock, she was alone at her house and was standing at the gate of her house. Her husband had gone to attend a wedding.

When she was standing at the gate, one Ashok S/o Yash Pal, R/o Village Narhawali, came towards her and stated that “she was looking outside while standing at the door’ and started abusing her. Thereafter, she went inside the house and when came back, Ashok came to her and caught hold of her chest and said that he would outrage her modesty. She has stated to have saved herself and when her husband came back, she intimated the same to him and a complaint was filed.

3. On the basis of the said complaint, an FIR was registered. After the presentation of the report under Section 173 Cr.P.C, charges were framed for offences punishable under Sections 294, 354 of the Indian Penal Code, to which the respondent pleaded not guilty and claimed trial.

4. The prosecution examined the following witnesses:-

PW-1 : ‘X’ complainant.

PW-2 : Dalbir

PW-3 : Inspector/SHO Preet Pal

and tendered the following documents:-

Ex.PW1/A : Complaint dated 4.12.2012

Ex.PW2/A : Endorsement

5. The statement of the accused was recorded under Section 313 Cr.P.C. The accused denied all the incriminating evidence against him and pleaded innocence and false implication. No evidence was led in defence. After hearing both the sides and considering the evidence the learned Trial Court acquitted the accused from all the charges leveled against him. Aggrieved by the judgment of the acquittal, an appeal was preferred. The appeal was also dismissed vide judgment dated 02.08.2019. Aggrieved by

the judgments dated 12.06.2017 and 02.08.2019, the present revision petition has been preferred.

6. Learned counsel for the petitioner would contend that the benefit of doubt has wrongly been given to the accused on the ground that there is no unexplained delay in registration of the FIR and due to concealment of certain facts. It is further the contention that since the complainant's husband was away, she naturally could not make the complaint in the absence of her husband and that the delay stood amply explained.

7. I have heard learned counsel for the petitioner.

8. The incident in the present case is alleged to have occurred on 27.11.2012. Though the husband of the complainant was stated to be out-station and returned on 02.12.2012, however, the present FIR was got registered on 04.12.2012. There is no reason forthcoming for the delay in lodging the FIR. Secondly as per the cross-examination of the complainant, she is said to have shouted at the time of the alleged occurrence and the neighbours came to know of the incident, however no independent witness was examined by the prosecution. Another very important factum, which has been noticed by both the Courts is that the accused was related and there was a history of previous enmity and litigation. The said fact was not disclosed in the complaint Ex.PW-1/A. Even the Investigating Officer was not examined in the present case.

9. In the present case, learned counsel for the petitioner has not been able to show this Court any evidence on record which would prove the commission of the crime.

10. In view of the above, I do not find any reason to interfere in the findings returned by both the Courts below. Accordingly, the impugned order dated 12.06.2017 passed by the Trial Court is upheld and the present revision petition is dismissed. Pending applications, if any, also stand disposed off.

10.08.2023

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(ALKA SARIN)

JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO