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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-25-2020 (O&M)
Reserved on : 22.08.2023
Date of decision : 25.08.2023

Sunita Rani ... Petitioner(s)

Versus

Ranjan Wafa and another ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. G.K. Mann, Senior Advocate with
Mr. Gursewak Singh, Advocate for the petitioner.

ALKA SARIN, J.

CRM-108-2020

This is an application for condonation of delay of 26 days in
filing the present revision petition.

For the reasons stated in the application, the delay of 26 days in
filing the present petition is condoned. CRM stands disposed off.

CRR-25-2020

1. The present revision petition has been filed by the complainant-
petitioner against the judgments dated 02.07.2018 and 26.08.2019 passed by
the Chief Judicial Magistrate, Gurdaspur and the Additional Sessions Judge,
Gurdaspur, respectively, in FIR No.100 dated 26.08.2015 registered under

Section 354-A of the Indian Penal Code, 1860 at Police Station City Gurdaspur, District Gurdaspur whereby the accused-respondent No.1 was acquitted of the charges framed against him and the criminal appeal filed against acquittal was also dismissed.

2. The brief facts relevant to the present *lis* are that the complainant-petitioner has alleged in the complaint that she was married to one Rajiv Kumar and one son was born out of the wedlock. She has further stated in the complaint that a case was registered at her instance against her husband for demand of dowry and the same was fixed for 25.08.2015 in the Court of Ms. Manpreet Kaur, the then Judicial Magistrate 1st Class, Gurdaspur. After attending the Court proceedings when she came out of the Court and was coming downstairs along with her father at about 03.30 PM, her brother-in-law (*Jeth*) Ranjan Wafa son of Puran Chand came there and did an indecent act by touching his penis and ran away from there after abusing her. She has further alleged in the complaint that he (accused-respondent No.1) had been doing such indecent acts in the past also. Thereafter, she went to her house and discussed the entire incident with her family and the FIR was lodged on the next day i.e. 26.08.2015. The prosecution examined 05 witnesses and the statement of the accused-respondent No.1 was recorded under Section 313 of the Code of Criminal Procedure, 1973 who denied the allegations and claimed innocence. A specific plea was raised that the complainant-petitioner is the wife of his real brother and due to a matrimonial dispute between the complainant-petitioner and her husband, the accused-respondent No.1 has been implicated in the

present case. In defence evidence, the accused-respondent No.1 examined DW-1 Varinder Singh Goraya, Advocate and thereafter his evidence was closed by order. The Trial Court disbelieved the version of the prosecution and vide judgment dated 02.07.2018 acquitted the accused-respondent No.1 of charges framed against him by giving him benefit of doubt. Aggrieved by the said judgment dated 02.07.2018, an appeal was preferred. The Appellate Court vide judgment dated 26.08.2019 upheld the findings of the Trial Court and dismissed the appeal. Hence, the present revision petition.

3. Learned senior counsel appearing on behalf of the complainant-petitioner has contended that the complainant-petitioner has fully supported the prosecution case, however, the accused-respondent No.1 has been acquitted by holding that the case of the prosecution is highly doubtful as far as the place of occurrence is concerned and further that there is no independent witness of the alleged occurrence except the father of the complainant-petitioner as also on the ground of delay of 24 hours in registration of the FIR. Learned senior counsel for the complainant-petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Phool Singh Vs. State of Madhya Pradesh [2022 (2) SCC 74]** to contend that conviction can be based on the sole testimony of the victim.

4. Heard.

5. In the present case the Appellate Court by referring to para No.10 of the Trial Court's judgment has held that keeping in view the previous history of a litigation of the complainant-petitioner, false implication cannot be ruled out as well as that there was no independent

corroboration. The Trial Court's finding, relied upon by the Appellate Court, reads as under :

“On the other hand, to impeach the credit and trustworthiness of PW-1 and PW-2, the accused has proved on record copy of order dated 24.12.2014, passed by the Court of Sh. Raj Pal, the then Judicial Magistrate Ist Class, Gurdaspur, whereby it had come on record that Naib Court of the said Court moved a written complaint against the present prosecutrix, whereby it was alleged that she misbehaved with him. It has further come on record that consequent upon this Prosecutrix suffered unconditional apology in the said Court made undertaking that she will not repeat such act. Similarly, as per the application moved by PHC Naresh Kumar No.682/GSP Ex.D2, similar allegations were raised against the prosecutrix and her father before the court of Sh.Raj Pal, the then learned Judicial Magistrate Ist Class, Gurdaspur on 24.12.2014 and the prosecutrix suffered unconditional apology on the application itself stating therein that she will not repeat such act in future. Keeping in view the aforesaid discussion, it becomes evident that case of the prosecution is highly doubtful as far as the place of occurrence is concerned.”

6. In the present case there are no details of the abusive language which the accused-respondent No.1 is stated to have used against the complainant-petitioner either in the FIR or in her statement. The place of occurrence alleged is a public place i.e. Court compound. The only alleged witness of the incident is the father of the complainant-petitioner. No independent witness was produced to corroborate the same.

7. The reliance placed upon the judgment in the case of **Phool Singh** (supra) is wholly misplaced inasmuch as it has been held in the said case that conviction can be based solely on the statement of the prosecutrix if it is found to be credible and trustworthy. In the present case, keeping in view the place of the alleged incident as well as the history of previous litigation, this Court is not inclined to interfere with the findings recorded. Learned counsel for the petitioner has not been able to show to this Court any evidence on record which would prove the commission of the crime. It is well settled by a catena of decisions that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. No manifest illegality or miscarriage of justice has been highlighted by counsel for the petitioner.

8. 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 judgements dated 02.07.2018 and 26.08.2019 are upheld and the present

revision petition is dismissed. Pending applications, if any, also stand disposed off.

25.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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