

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

CRM-M-20416-2015

Date of Decision:20.04.2024

Smt. Savitri Devi

...Petitioner

Vs.

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Ms. Deepika Advocate for
 Mr. S.K Yadav, Advocate
 for the petitioner.

Mr. Karan Garg, AAG, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 Cr. P.C with a prayer to quash the judgment dated 17.04.2015, passed by the Court of Sessions Judge, Narnaul, whereby the revision petition filed by the respondents No.2 to 7 was allowed and the summoning order dated 06.06.2014 (Annexure P-4) passed by the Court of Sub-Divisional Judicial Magistrate, Mahendergarh was set aside.

2. In the present case, the petitioner had filed a criminal complaint titled as **"Savitri Devi Vs. Sardara Singh and Others"**, under Sections 148,149,323,452,506 of IPC by alleging that she was a housewife and her husband used to remain outside the house, in connection with his labour work. The accused used to raise quarrel with her without any justification. At about 08:00 AM on 30.08.2013, when she was washing utensils in her house and her son had gone outside to serve water to the Cow; all the accused by forming an

unlawful assembly and duly armed with lathis, jellies and dandas came there and Sardara, who was armed with a walking stick (baint), gave a blow on her nose with it. Dhannu gave a blow with jelly on her right leg and Sunda, who was armed with an axe, tried to give a blow with it, but her son Manoj came there and caught hold the axe. Sardara gave stick blows to her son and Savita caused an injury on the waist of her son with a stick. Lalita and Kela caused injuries with stones and she fell down and was given fist and kick blows by the accused. Son of the complainant, Krishan and Dinesh rescued her from the accused, otherwise they would have given her more beatings. While leaving at spot, all the accused extended the threat that they would be done to death, on getting an opportunity in future. The complainant and her son went to Police Post Akoda and moved an application and got their medico-legal examinations done at Community Health Centre, Mohindergarh and X-ray of the complainant was also done. Instead of taking action against the accused, the police had presented a *calendra* under Section 107/151 Cr.P.C against her son Parveen, but he was not even present at the spot. The petitioner also moved an application before the Superintendent of Police, Narnaul, but no action was taken against the accused, as the local police had colluded with the accused. Ultimately, the FIR was not registered and the petitioner was constrained to file the present complaint.

3. In preliminary evidence, the complainant examined Manoj Kumar as CW-1 and appeared herself as CW-2. She closed the preliminary evidence after tendering documents Ex.P1 to P6. During the course of trial, the Trial Court ordered the summoning of the respondents No.2 to 7 under Sections 148,149,323,452,506 of IPC. Feeling aggrieved, respondents No.2 to 7 had filed

a revision petition, which was allowed by the Court of Sessions Judge, Narnaul. Challenging the said judgment, the petitioner has filed the instant petition.

4. Learned counsel for the petitioner contends that in the present case, there was sufficient oral as well as documentary evidence to prove that the respondents No.2 to 7 had caused injuries to the petitioner and her family members. Even, the copy of the MLR of the petitioner was exhibited as Ex.P6 and the copy of the DDR,Ex.P-3 clearly shows that the application was moved by her to Police Post Akoda. She had also exhibited her application moved to the SSP, Narnaul as Ex.P-5. He further contends that Revisional Court had completely overlooked the scope of the proceedings at the time of disposal of the revision petition. The Revisional Court is never expected legally to delve deep into the merits of the case and the impugned judgment is grossly erroneous. The Revisional Court had exercised the judicial discretion arbitrarily and has decided the revision petition like a full fledged trial, after appreciating the evidence. In fact, such exercise by the Revisional Court was impermissible in law and the impugned judgment is legally unsustainable.

5. I have heard learned counsel for the parties and perusing the record.

6. In the present case, the petitioner had examined her son Manoj Kumar as CW-1, who stated that the accused had caused injuries to his mother. Lalita gave a lathi blow on the backside of the his chest, whereas, Kela and Lalita threw brickbats in the house and all the accused brought him and his mother on the floor and gave them fist and kick blows. However, said facts were not mentioned in the complaint. It was mentioned in the complaint that stone blows were given by Savita and not by Lalita. Apart from that, it was

also stated that Ravi, Prem, Krishan and Dinesh had rescued them, but they were not examined by the complainant. Savitri, complainant appeared as CW-2 and mentioned the details with regard to the injuries, caused by the accused. However, the statements of CW-1, Manoj Kumar and CW-2 Savitri, petitioner were inconsistent and the cumulative reading of the statements of both the witnesses would demolish the case of the complainant. Apart from that, it has been alleged that Manoj Kumar had watched the accused causing injuries to his mother. It is highly improbable that Manoj Kumar, who is son of the complainant, would stand at the place of occurrence as a spectator and he was silently watching six accused causing injuries to his helpless mother. Thus, the version of the complainant was highly unbelievable.

7. Apart from that, the Trial Court has also noticed the various discrepancies, which are appearing in the testimonies of various prosecution witnesses. No doubt, the Revisional Court is not expected to fathom deep into the merits of the case and is only supposed to see the prima facie case against the accused, but when the case of the complainant does not inspire confidence, it is safe to drop the charges against the accused. In the present case, detailed findings have been recorded by the Revisional Court, after due appreciation of the preliminary evidence and the revision has been correctly allowed. Apart from that, the impugned judgment does not suffer from any material irregularity, illegality or perversity. Detailed findings have been recorded by the Revisional Court, while setting aside the summoning order dated 06.04.2014 (Annexure P-4) passed by the Court of Sub-Divisional Judicial Magistrate, Mahendergarh.

8. In view of the above, the present case is ordered to be dismissed.

20.04.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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