

CRR-2054-2018(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2054-2018(O&M)

Poonam
.....Petitioner

Versus

Ram Kishan Nagpal and others
.....Respondents

CRR-2553-2018(O&M)

Poonam
.....Petitioner

Versus

Ajay and others
.....Respondents

Date of Decision: 29.01.2024

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manoj Pundir, Advocate
Legal Aid Counsel for the petitioner

Mr. Shubhdeep Singh, Advocate
for respondents No. 1 to 3 in CRR-2054-2018

HARPREET SINGH BRAR, J. (ORAL)

1. This order of mine shall dispose of both the above-mentioned revision petitions as the same arising of the common FIR. For the sake of brevity, the facts are taken from CRR-2054-2018.
2. These instant revision petitions have been preferred against the impugned order dated 30.01.2018 passed by learned Additional Sessions Judge, Karnal whereby, respondent no.1, 2 and 3 namely Ram Kishan Nagpal, Arjun Chhabra and Puran, respectively in CRR-2054-2018 & respondents No.1 and 2 namely Ajay and Sanjay respectively in CRR-2553-2018, have been

acquitted and the judgement of conviction dated 07.02.2014 as well as the order of sentence dated 10.02.2014 passed by learned Chief Judicial Magistrate, Karnal in complaint case No. 100/2012 instituted on 14.03.2006/28.04.2009/16.11.2012 under Sections 323, 452, 148, 149, 506 of IPC have been set aside.

FACTUAL BACKGROUND

3. Briefly, the facts are that the petitioner and the above-mentioned respondents are immediate neighbours and the petitioner made a complaint against them to HUDA alleging them to have made an illegal construction on their house. Thereupon, in order to settle score with the petitioner, the respondents started abusing the brother of the petitioner on 02.03.2006. When the petitioner came out of her house and raised objection to the abuses being hurled, the respondents entered her house and gave a slap on her right ear. Further, respondent Sanjay gave a Danda blow on her right arm, co-accused Billo gave a brick blow on her hand, respondent Puran gave a lathi blow on her right thigh, respondent Ram Kishan Nagpal held her from her hair and respondent Arjun gave her slap and fist blows. When the mother of the petitioner tried to rescue her, co-accused Kamlesh gave a leg blow ther mother upon which she fell on the floor. When the petitioner and her mother raised hue and cry, the respondents along with other accused left the place of incident but while leaving, threatened the petitioner and her family members of dire consequences if they did not sell their house. Thereafter, the petitioner was taken to the hospital and medico-legally examined. Aggrieved by the complacency of the police, the petitioner filed a private complaint.

4. Learned trial Court convicted the above-mentioned five respondents

out of eight accused summoned to face trial and sentenced each of them to undergo simple imprisonment for 6 months under Section 323/149 IPC, 6 months simple imprisonment under Section 148 IPC and 1 year simple imprisonment along with fine of Rs.1000 (in default S.I of 15 days) under Section 452/149 IPC, respectively.

5. Thereafter, the respondents filed two separate appeals against the abovesaid judgement of conviction and the order of sentence. Learned lower Appellate Court by a common judgment and after observing that the learned trial Court did not appreciate the facts, evidence and legal preposition of the present case in the right perspective, allowed both the appeals, thereby, acquitting the respective respondents. Aggrieved by the same, the petitioner-complainant has preferred the present revision petitions.

CONTENTIONS

6. Learned counsel for the petitioner contends that it was well established before the learned trial Court that due to previous enmity, the respondents after trespassing into the house of the petitioner, gave her and her mother specific injuries. It is further contended that learned lower Appellate Court wrongly reversed the judgement of conviction by not taking into consideration the fact that examination of doctor is not necessary in order to prove simple injuries and solitary testimony of the injured is sufficient to hold the accused guilty, which in present case has been substantiated by the testimony of the mother of the petitioner.

7. Learned counsel for the private respondents in CRR-2054-2018 contends that lower Appellate Court has correctly reversed the judgement of conviction passed by learned trial Court as the father of the petitioner-

complainant himself admitted in his statement (Mark-DA) that no occurrence as alleged by the petitioner had taken place and that this evidence was wrongly ignored by the learned trial Court. It is further submitted that the petitioner and her mother habitually filed multiple complaints against the respondents as well as other persons but all of them resulted in acquittal or dismissal. It is further contended that the father of the petitioner also admitted that the petitioner had levelled false allegations against the respondents but as her father was never produced as a witness before the learned trial Court, which should lead to adverse inference as even this Court in its order dated 13.11.2009 in COCP No.1602 of 2008 qua the petitioners in another case had observed that the petitioner and her mother were in habit of making false complaints.

ANALYSIS AND OBSERVATIONS

8. I have heard learned counsel for the petitioner and after perusing the paper-book with his able assistance, it transpires that the petitioner herself admitted in her cross-examination that her brother is suffering from mental illness due to which he used to roam naked hurling abuses towards the people in the locality and at times, even carried a brick in his hand. This resulted in multiple quarrels between the petitioner, her mother and the people in the locality. Further perusal of the allegations levelled by the petitioner and her cross-examination shows that offences under Section 148 and 452 IPC are not made out. As far as the offence under Section 323 is concerned, that petitioner examined the concerned doctor in her preliminary evidence but failed to examine the same in her pre-charge or post-charge evidence due to which cross-examination of said doctor was never conducted. Even if the MLR report is taken into consideration, the fact that there is only one visible injury shows that

the allegations made by the petitioner are highly exaggerated. After appreciating the complete record as well as the contentions made by the respective counsels, this Court is inclined to hold that the impugned order passed by the lower Appellate Court is correct.

9. Furthermore, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (*See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana Vs. Ankit and others CRM-A No.3 of 2022 decided on 06.07.2023* has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

CONCLUSION

10. In view of the above discussion, the present revision petitions stand dismissed on merit. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

January 29, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No