

(2006) 01 P&H CK 0227

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 2138 of 2004

Maya Devi

APPELLANT

Vs

Champa Devi and Others

RESPONDENT

Date of Decision: Jan. 6, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 324

Citation: (2006) 17 CriminalCC 985

Hon'ble Judges: Uma Nath Singh, J

Bench: Single Bench

Advocate: Mani Ram Verma, for the Appellant;

Final Decision: Dismissed

Judgement

Uma Nath Singh, J.

This Criminal Revision arises out of a judgment dated 20.5.2004 passed in Criminal Case No.269-1 of 1996 (FIRNo.46 dated 23.3.1996) registered under Sections 323, 324 and 325 read with Section 34 IPC, Police Station Badhra. It appears that the police received an information on 8.3.1996 from the Primary Health Centre, Kadma and pursuant thereto recorded a statement of injured Maya Devi. In her statement, she narrated that her son Janmej returned from school and complained that he was beaten by Vicky son of Suresh of the same village. Complainant Maya Devi was going to the house of Suresh for lodging a protest with regard to this incident but on the way, she found accused Suresh and Ginna, armed with jelly and lathi. On making a complaint about the behaviour of their son Vicky, accused Suresh caused a jelly blow, hitting the complainant on her forehead. He repeated the blow, which again landed on her forehead. Thereafter, accused Ginna inflicted a lathi blow due to which, the complainant sustained an injury on her jaw. She also received another lathi blow on her right shoulder. According to the complainant, accused Mahesh and Champa, who were also armed with jelly and lathi, arrived there. Accused Mahesh caused jelly blow on her elbow and accused Champa dealt a lathi blow on her back.

Further, according to her, other co-accused persons, namely, Vidhadhar and Gangadutt came to the spot at that moment, being armed with jelly. This is also the complainant's case that when her son Bablu tried to intervene in the matter, accused Vidhadhar and Gangadut caused injuries to him. In the meantime, Krishana wife of Gangadut, armed with rapri and Roshni wife of Mahesh, armed with lathi, came there and they also inflicted injuries upon Jhabbu. Complainant's husband, when he tried to rescue her. This is also the complainant's case that upon raising an alarm, Malkhan Singh son of Mandrup, resident of Naurangawas, was attracted to the place of occurrence, who rescued the complainant and other injured from the clutches of the accused. This is also a complainant's case that in the self-defence, they had inflicted injuries upon the accused. On the statement of the complainant, since no cognizable offence was made out, the matter was kept pending till x-ray examination report was received. The present case was, accordingly, registered on 23.3.1996, on receipt of x-ray report dated 23.3.1996 of complainant Maya Devi, wherein she was shown to have received an injury of fracture on her right scapula region. After investigation, challan was laid before the competent Court for trial. The accused pleaded a complete denial of the incident u/s 313 Cr.P.C. Complainant Maya Devi (PW- 4) proved her statement (Ex.PW-4/A). Bablu (PW5) son of Maya Devi, one of the injured, also tried to corroborate the version of the complainant. They also produced Malkhan Singh (PW-6) who is said to be an independent witness of the occurrence. However, it appears from the record that the injuries received by the accused side, namely, by Champa Devi, Suresh and Mahesh were not explained by the prosecution, which according to a settled principle of law would prove fatal to the credibility of the prosecution case. In her Court statement, the complainant has not given any explanation for the injuries found on the accused side. It appears from her cross-examination that she has shown her total ignorance about such injuries although according to her the incident had lasted for half an hour. Bablu (PW-5), too, has not stated anything about the injuries, and so is the case with Malkhan Singh (PW6). He has stated that the occurrence lasted for half an hour but he is categorical in saying that accused Suresh and Mahesh did not receive any injury in the fight. Thus, the testimonies of complainant (PW-4), Bablu (PW-5) and Malkhan Singh (PW-6) do not appear to inspire confidence as regards the genesis and the manner of the incident. Accused Champa, Suresh and Mahesh underwent their medical examinations vide MLRs (Exs.DD, DE and DF) and they were found to have received a number of injuries in the incident. Further, Ex.DD, the MLR of Champa, also disclosed that injury No. 1 received on her head was an incised wound caused by a sharp edged weapon. At the time of her examination, the wound was found to bleed profusely and the lower part of the wound was separated for about 2cms. from the bone. Thus, the learned trial Court has rightly held that such an injury cannot be a self-inflicted one. Besides, accused Suresh was found to have received two injuries, whereas accused Mahesh has received as many as 10 injuries.

2. Under the circumstances, the learned trial Court has rightly come to the conclusion that non-explanation of the injuries on the accused side would prove fatal to the prosecution case.
3. Malkhan Singh (PW-6) has been found to be an interested witness, as, now and then, he used to borrow money from the husband of the complainant. That apart, the 1.O. has not been examined and the site plan and other details collected during the investigation could not be proved.
4. As such, I do not find any in this Criminal Revision, and, thus, it is hereby dismissed.