

(2012) 01 GAU CK 0033

Gauhati High Court (Agartala Bench)

Case No: Criminal Rev. P. No. 54 of 2004

Sri Taher Hossain

APPELLANT

Vs

State of Tripura

RESPONDENT

Date of Decision: Jan. 7, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 397, 401
- Penal Code, 1860 (IPC) - Section 323

Hon'ble Judges: Swapan Chandra Das, J

Bench: Single Bench

Advocate: U.K. Majumder and Mr. S.C. Majumder, for the Appellant; P. Bhattacharjee, Addl. P.P., for the Respondent

Final Decision: Dismissed

Judgement

S.C. Das

1. This criminal revision petition u/s 397 read with 401 of CrPC is directed against the judgment and order dated 15.06.2004, passed by learned Sessions Judge, South Tripura, Udaipur in Criminal Appeal No. 16 (2) of 2004, by which the learned Sessions Judge affirmed the judgment and order of conviction and sentence dated 08.04.2004, passed by learned Judicial Magistrate, First Class, Amarpur, in G.R. case No. 80 of 2002 u/s 323 of IPC. Learned Magistrate, found the accused-petitioner guilty of committing offence u/s 323 of IPC, sentenced him to suffer RI for one year and to pay a fine of Rs. 1,000/-, in default, to suffer SI for further period of one month. The learned Sessions Judge while affirming the finding of conviction was pleased to reduce the sentence to suffer RI for six month and to pay a fine of Rs. 1000/-, in default, to suffer SI for further one month.

2. The revisional application was filed on 02.08.2004. None appears for the petitioner to argue the case. By an order dated 18.11.2011, passed by this Court, it was cautioned that if the petitioner remains absent, the matter would be heard and

disposed of on merit. Learned Addl. P.P., Mr. P. Bhattacharjee, present for the State respondent is heard.

3. It is submitted by learned Addl. P.P., Mr. Bhattacharjee that the petitioner is the husband of informant victim, Mamata Begum (PW.1). She was severely beaten by the accused-petitioner, who is her husband, on 30.07.2002 at about 08.30 pm, and was put out from the house with her son and daughter. She was admitted in Amarpur hospital and then at Udaipur hospital and had undergone treatment of the injury sustained by her for the assault by her husband. PWs.2, 3, 4 and 5 corroborated informant-victim and their evidence remained un rebutted. It is further submitted by learned Addl. P.P. that the accused examined himself and four other witnesses in support of his defense and in his deposition he stated that he found his wife, Mamata Begum in a compromising position with another person, namely, Subir Sen Ghosh and he had scuffling with paramour of his wife and at that time his wife was trying to resist him from assaulting her paramour and as he pushed his wife, she sustained injuries. It is further submitted by learned Addl. P.P. that other DWs did not at all support the story put forward by the accused-petitioner, and therefore, both the trial Court as well as the first appellate Court, relying on the evidence of the prosecution, arrived at a finding of guilt of the accused. This revisional Court, therefore, is not required to inter into the factual aspect as already appreciated by both the trial Court and the first appellate Court and has submitted that the revisional application may be dismissed.

4. I have gone through the judgment and order of conviction and sentence passed by the learned Magistrate and also the judgment and order passed by the learned Sessions Judge. I have also gone through the evidence recorded during trial.

5. The revisional Court is to see the correctness, legality and propriety of the order/judgment impugned and to see the regularity of the proceeding. Ordinarily, a revisional Court is not required to enter into the details of evidence on record, unless it is apparently shown that the finding of the Courts below was perverse. In the present case, on perusal of the judgments passed by the Courts below, I find that the Courts below properly appreciated the evidence on record. There is nothing to note the incorrectness, illegality or impropriety in the judgment and order passed by the Courts below. The learned Sessions Judge has fairly appreciated the defense story and rightly disbelieved it.

6. Since I find no reason at all to interfere with the concurrent finding of fact of the Courts below, the revisional application stands dismissed.

7. Send back the L.C. records along with a copy of the judgment. The criminal revision petition accordingly stands disposed of.