

**In the Court of Sh.Sangam Kaushal,
Judicial Magistrate First Class, Baghapurana**

CNR No.
PBMOB10006032020



Case No. CHI/236/2020

Presented on : 06-11-2020

Registered on : 06-11-2020

Decided on : 21-03-2023

State of Punjab

Versus

1. Kuldeep Singh son of Gurdev Singh son of Arjan Singh.
2. Parminder Kaur w/o Jasvir Singh son of Major Singh.
3. Amandeep Kaur w/o Gagga Singh son of Major Singh.
4. Rajdeep Kaur w/o Raju Singh son of Major Singh

All residents of Badal Patti Rode, Tehsil Baghapurana District Moga.

--Accused.

FIR No.17 dated 18.02.2020,
U/s 354,354-B,323,34 IPC
P.S. Smalsar

Present: Sh. Sukhdev Singh, Learned APP for State.

Accused Kuldeep Singh, Parminder Kaur, Amandeep Kaur and Rajdeep Kaur on bail with counsel Sh. Ravinder Singh Brar, Advocate.

JUDGMENT:-

1. Accused Kuldeep Singh, Parminder Kaur, Amandeep Kaur and Rajdeep Kaur have been sent up by the Station House Officer of Police Station Smalsar to face trial for the offence punishable under Sections 354, 354-B, 323, 34 IPC.

2. The brief facts of the case of prosecution are that on 15.02.2020, SI Jagsir Singh was present at police Station when MHC intimated that Babbaljit Kaur was admitted to Civil Hospital Baghapurana due to injuries. SI Jagsir Singh alongwith CT Beant Singh reached at Civil hospital and received MLR No. HDK/01/2020/BPA of Babbaljit Kaur in which doctor had mentioned three injuries and all were inflicted by blunt weapon. Injury no. 1 and 3 were simple in nature and injury no. 2 was kept under observation. Thereafter, SI Jagsir Singh got recorded the statement of complainant which was to the effect that she is working as Asha worker at Dispensary GTB Garh. She also looks after patients from village Rode. Gurjeet Kaur wife of Kuldeep Singh who belongs to the village of complainant and who was 9 months pregnant also came to her.

The complainant got conducted her HB test and result was 7.50 gram and the complainant informed this fact to ANM Paramjit Kaur who directed that Gurjeet Kaur be taken to Civil Hospital for blood transfusion. The same was done on 12.02.2020 under the supervision of Dr. Manisha. Gurjeet Kaur was directed by the doctor to get herself admitted however, she came back home without informing anyone. On 13.02.2020 ANM Paramjit Kaur visited the house of complainant to check up on Gurjit Kaur. They went to her house where ANM Paramjit Kaur issued directions to Gurjit Kaur and went for her duty. The complainant also went back. On the same day at about 03:00 PM accused Kuldeep Singh took the complainant to their house on the pretext that Gurjit Kaur was suffering from severe pain and had to be taken for delivery. When complainant went to their house, Gurjit Kaur was standing there and upon asking, she stated herself to be fine. Then Parminder Kaur W/o Jasvir Singh and Rajdeep Kaur W/o Raju, Amandeep Kaur w/o Gagga Singh started abusing the complainant stating as to why she had brought ANM Paramjit Kaur to their house. Kuldeep Singh also started abusing her by using vulgar words. He slapped her then he gave fist blows on her left shoulder and gave kick blow on her left knee. They also dragged her and during this tussle her uniform was torn. She raised alarm and her husband

came and saved her from the accused. She went to her home. On 14.02.2020 she felt pain due to injuries inflicted by the accused. Her husband admitted her to Civil Hospital, Baghapurana. Motive behind the occurrence was that accused persons were objecting to the fact that complainant brought ANM Paramjit Kaur to their home. On this information FIR No. 17 dated 18.02.2020 Under Sections 354, 354-B, 323, 34 IPC was registered. Investigation was carried out. Statements of witnesses were recorded. After completion of investigation challan was presented in the court against accused Kuldeep Singh, Parminder Kaur, Amandeep Kaur and Rajdeep Kaur Under Sections 354, 354-B, 323, 34 IPC.

3. Upon appearance of the accused, copies of the challan along with statements of prosecution witnesses recorded in terms of Section 161 Cr.P.C were supplied to accused free of cost, as envisaged under Section 207 Cr.P.C.

4. After going through the report and the statements attached with the challan, prima facie case was found to be made out and charge under Sections 354,354-B,323-B IPC was framed to which accused pleaded not guilty and claimed trial.

5. In evidence, prosecution examined Babbaljit Kaur as PW1, Nirmal Singh as PW2, Dr. Harmandeep Kaur as PW3, SI Jagsir Singh as PW4 and ANM Paramjit Kaur as PW5. Thereafter the learned APP for the State closed the prosecution evidence.

6. Then separate statements of accused under section 313 Cr.P.C were recorded wherein all the incriminating circumstances were put to them who denied the same and pleaded their false implication in the present case. However, accused did lead any defence evidence.

7. In order to bring home the guilt of the accused, the prosecution has examined five witnesses. Firstly examined PW1 Baballjit Kaur who is complainant, reiterated the version of prosecution case which need not be repeated for the sake of brevity. She deposed in line with her statement Ex.P1 and stated that at the time of occurrence, the accused persons started abusing her. She further stated that accused Kuldeep Singh slapped her and gave fist blows on her left shoulder and kick blows on her left knee. The accused also dragged her and her uniform was torn. The complainant was cross-examined on the lines that she has filed a false case against the accused persons as she wanted to admit Gurjit Kaur to a private hospital. Similarly, PW2 Nirmal Singh who is the husband of complainant deposed on similar lines and supported the

case of prosecution. However, during his cross-examination, he admitted that he was not present at the time of occurrence and came to the spot after 5-7 minutes. As regards the nature of injuries the prosecution examined Dr. Harmandeep Kaur as PW3 who examined Babbaljit Kaur. The injuries on person of Babaljit Kaur were described as (i) Alleged history of slapping on cheeks. Complain of pain on both cheeks. No bruise or swelling on face (ii) complain of paid in left shoulder joint. No bruise or swelling is seen. No restriction of movement. Advise X-Ray (iii) Complain of pain in left knee joint. No bruise or swelling is seen. No restriction of movement. Out of these, injury no. 1 and 3 were declared as simple. Injury no. 2 was kept under observation and later on declared simple in nature. Weapon used was blunt for all injuries. The witnesses proved carbon copy of MLR of Babbaljit Kaur as Ex.P2, pictorial diagram Ex.P3, computerized copy of MLR Ex.P4. Thereafter prosecution examined PW4 SI Jagsir Singh who is the Investigating Officer who proved on record statement of complainant as Ex.P1, police endorsement Ex.P5, FIR Ex.P6, visual site plan Ex.P7, recovery memo Ex.P8, arrest memos of accused persons Ex.P9 to Ex.P11, intimation of arrest Ex.P12. Thereafter, prosecution examined PW5 ANM Paramjit Kaur Sub Center GTB Garh, PHC Thathi Bhai, Tehsil Baghaurana. She brought the record

pertaining to pregnancy of Gurjit Kaur wife of Kuldeep Singh son of Gurdev Singh R/o Badal Patti Village Rode. As per record she was 8 weeks pregnant at the time of registration i.e. on 17.07.2019 and she was under the continuous supervision of herself and Asha worker Babbaljit Kaur. Copy of relevant record has been proved as Ex.PW5/A.

8 A careful consideration of the record reveals that the offences under which the accused have been charged are Section 354, 354-B, 323 read with Section 34 IPC. Section 354 deals with assault or criminal force to woman with intent to outrage with modesty. Similarly, Section 354-B deals with assault or use of criminal force to woman with intent to disrobe. A bare perusal of the framing of these Sections reveals that the intention of outrage the modesty or of disrobing is the focal point of the offence. In order to bring the act of accused under these provisions it has to be proved that the act of outraging the modesty or disrobing etc. was done as an intentional act in order to achieve the desired consequence. In the case at hand the complainant herself has stated that Kuldeep Singh slapped her and gave her beatings. He gave her blows on her shoulder and knees and as a result of this scuffle, her uniform was torn. Even if these facts are considered true in their entirety, the element of intention i.e. mens rea is still missing as is required to attract the provisions of Section

354 and 354-B IPC. In a scuffle, there is likelihood that tearing up of clothing might ensue, but it does not by itself attract the provisions of these sections. Therefore, even from the prosecution case considered at its own, offences under Section 354 and 354-B IPC are not made out.

9. As regards the offence under Section 323 IPC, the complainant has categorically stated that the accused persons verbally abused her and thereafter the accused Kuldeep Singh have her beatings. Although the medical record Ex.P2, Ex.P3 and Ex.P4 do not reveal any external injuries, but external injuries are not a pre-requisite to attract the provisions of Section 323 IPC. Even otherwise medical evidence is only of corroborative value if direct evidence is itself enough to bring home the guilt of accused. In the present case the complainant has deposed on oath as regards the occurrence. As far as complainant's husband Nirmal Singh is concerned, his testimony does not carry much weight as he himself conceded that he arrived at the spot 5 to 7 minutes after occurrence. In such a scenario, his testimony cannot be considered as direct evidence and is merely hearsay. As regards infliction of injuries, no specific role has been attributed to the co-accused by the complainant. It is simply stated that they all starting abusing her. No evidence as to the role of those accused has come on record and no injuries have been mentioned as

inflicted by them. The injured/complainant has only deposed against accused Kuldeep Singh. Keeping in view the entire evidence, therefore what transpires is that the offences if any are made out only against accused Kuldeep Singh and not against other accused.

10. It is the basic rule of criminal jurisprudence that prosecution has to prove case beyond reasonable doubt. As discussed above the offences under Section 354 and 354-B IPC are not made out altogether. Offence under Section 323 stands proved only against accused Kuldeep Singh. Therefore, accused Parminder Kaur, Amandeep Kaur and Rajdeep Kaur are acquitted of all the charges framed against them and accused Kuldeep Singh is convicted of the offence under Section 323 IPC only and acquitted of other charges. Let he be heard on the quantum of sentence.

Pronounced: 21.03.2023

Sahil

Sangam Kaushal PCS
JMIC/ Baghapurana
(UID No. PB0639)

QUANTUM OF SENTENCE

Present: Sh.Sukhdev Singh, Learned APP for State.
Convict Kuldeep Singh alongwith counsel Shri Ravinder Singh Brar, Advocate.

Heard, the convict Kuldeep Singh while quantifying the sentence to be imposed upon him by presenting himself as sole bread winner of his family and a poor person. He therefore, prayed that a lenient view may kindly be taken.

Keeping in view the facts of the case, age and antecedents of the convict and gravity of offences so committed by him, the court is of the considered opinion that convict is not entitled to concession of probation. Accordingly, convict/accused is held sentenced to undergo rigorous imprisonment for a period of 15 days and also to pay fine of Rs. 1000/-. Fine Paid. Period of imprisonment already undergone by the convict during inquiry, investigation or trial of the case, if any be set off from the substantive sentence be undergone by him. Case property, if any be dealt as per rules after the expiry of period of limitation prescribed for filing the appeal or revision, if any. File complete in all aspects be consigned to Record Room. Bail bonds and surety bonds stand discharged. File be consigned to record room.

Date of order: 21.03.2023
Sahil

Sangam Kaushal PCS
JMIC/ Baghapurana
(UID No. PB0639)