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**(2011) 06 SHI CK 0224**  
**In the High Court Of Himachal Pradesh**  
**Case No : Criminal Appeal No. 63 of 2004**

State of Himachal Pradesh

APPELLANT

Vs

Parveen Kumar and Others

RESPONDENT

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**Date of Decision :** 27-06-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 154  
Penal Code, 1860 (IPC) — Section 323, 34, 498A, 504, 506

**Citation :** (2011) 06 SHI CK 0224

**Hon'ble Judges :** Surinder Singh, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Surinder Singh, J.—The acquittal of the Respondents in Cr. Case No. 21-II of 2001, passed on 18.11.2003, by the learned trial Court has been challenged by the State in the present appeal.

2. In short, the prosecution story can be stated thus. Complainant Shakuntla Devi was married to accused Sat Pal in the year 1984. Galfo Devi is his mother and other accused Parveen Kumar and Vipin Kumar are his brothers. Accused Sat Pal is employed in IFFCO at Delhi and the complainant was earlier residing in the house of her in-laws and during this wedlock, she gave birth to a daughter and two sons. The daughter is married and the sons are now adult and employed out of the State. The complainant is residing in the house of her parents and getting maintenance allowance from her husband.

3. It is alleged that on 29th May, 2001, at about 5 p.m. when complainant Shakuntla Devi was cleaning utensils in her verandah, her brother-in-law Parveen Kumar came there and kicked the utensils and used filthy language. He was followed by Galfo Devi, her mother-in-law, she gave beating with danda, whereas Parveen Kumar used spade to beat her. This pursuit was joined by another accused Vipin Kumar. He threw a bucket on her, but it missed the target. In that consequence of beating, her clothes were torn. She sustained injuries on her

various parts of the body. On hearing the cries, PW2 Manorma Devi and PW8 Taro Devi came to the spot alongwith two children. They challenged the assailants and only then they stopped beating her and escaped from the spot and while leaving the place, they threatened her to do away with her life and with dire consequences. When this statement was made, the complainant was hospitalized. Her statement culminated into FIR Ext.PW11/A.

4. Police visited the spot, prepared the site plan, recorded the statements of the witnesses, recovered spade Ext.P2 and also got obtained the MLC Ext.PW10/A of the complainant.

5. After completing the investigation, presented the challan against the Respondents for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code. Respondents were accordingly charge-sheeted, tried and acquitted for the offences aforesaid, hence the present appeal by the State.

6. Shri A.K. Bansal, learned Additional Advocate General for the Appellant-State vehemently argued that the learned trial Court acquitted the Respondents on whimsical grounds. The injuries on the body of the complainant stand proved and she clearly stated about the injuries having been caused to her by the Respondents and her version is duly supported by the statement of her father PW3 Gian Singh and PW5 Kumari Nabo her daughter. Thus, learned trial court while ignoring their statements has caused miscarriage of justice.

7. On the other hand, Shri K.D. Batish, learned Counsel for the Respondents has supported the impugned judgment of acquittal.

8. I have given my thoughtful consideration to the rival contentions of the parties have gone through the evidence on record.

9. The complainant after the alleged incident was hospitalized and the doctor informed the police about the case of alleged beating. On this information, police reached the hospital and recorded the statement of the complainant u/s 154 of the Code of Criminal Procedure, at 12.25 during the intervening night of 29/30.5.2001, but as PW1 complainant Shakuntla Devi testified that after the beating she became unconscious and regained senses in the hospital, around 9 a.m. which fact has been endorsed by her father PW3 Gian Singh, but he further stated that his daughter regained the senses in the morning of next day. It was thereafter, her statement was recorded by the police, thus the very recording of the statement aforesaid by the police is under cloud.

10. Further according to PW1 aforesaid, she sustained bleeding injuries on her person in the said incident, but according to the doctor, there were no bleeding injuries, except some abrasions as noted in the Medico Legal Certificate, the duration of which was more than six hours and less than 12 hours, but he also testified that the injuries in question could be self inflicted and could also be caused on account of fall on a hard surface.

11. PW8 Taro Devi stated that at the time of alleged incident, some villagers had also gathered there, but to lend corroboration to the case of the prosecution, except the interested witnesses, i.e. witnesses of the same family were examined and the independent witnesses were ignored.

12. PW2 Manorma Devi, who was cited as a witness to corroborate the version of PW1 Shakuntla Devi did not support the case of the prosecution. She only stated that the accused persons were following the complainant, who was walking ahead and addressing her as "Raand" and were threatening to kill her, but no beatings in her presence was given by the Respondents. She also did not say about the presence of PW8 Taro Devi on the spot. Even the complainant stated having addressed as "Raand" by the Respondents at the relevant time, but it finds no reference in the statement Ext.PW1/A, which was recorded by the police.

13. PW8 Taro Devi admittedly was not in visiting terms in the house of Respondents. It appears that she was having some dispute with them. Sat Pal, who was working in the IFFCO at Delhi, his presence could not be established by any of the witnesses on the spot at the relevant time. PW3 Gian Singh, the father of PW1 is also not an eye witness. According to him, the fact of beating was disclosed to him by his grand-daughter. The complainant does not make the reference of presence of PW5 Nabo her daughter at the spot when the utensils were alleged to have been kicked by Parveen Kumar Respondent. The aforesaid incident, as spelt out by the witnesses during examination in the Court is not worthy of credence so as to prove this case against the Respondents for the offence punishable u/s 498A of the Indian Penal code.

14. The meaning of cruelty as indicated in Clauses (a) and (b) added to explanation of this Section should be of such a nature which could derive her of to commit suicide or to cause a grave injury to her life, limb or health. The statement of the complainant fell short of the requisite standard required to prove the cruelty. Even PW3 Gian Singh father of the complainant does not say anything about the nature of the cruelty as is required to be proved u/s 498A of the Indian Penal Code. The general allegation as leveled by the complainant is quite vague and the present incident which is alleged to have been taken place on 29.5.2001 as projected is not proved.

15. Learned trial Court thoroughly examined the prosecution evidence and discussed every circumstance put forth which was rightly rejected to prove the charges. I find no ground to interfere in the impugned judgment of acquittal, as such appeal filed by the State lacks merits and is accordingly dismissed.

16. The Respondents are discharged of their bail bonds entered upon by them at any time during the proceedings of this case.

17. Send down the records.