

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Appeal-S No.2168 of 2003

Date of Decision: July 15, 2015

Sukhwinder Singh @ Kaku & anotherAppellants

Versus

State of Punjab and anotherRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.BS Sidhu, Advocate for the appellants.

Mr.Mikhail Kad, Assistant Advocate General, Punjab.

Mr.Harbhajan Singh, Advocate
for the complainant/respondent No.2.

<><><>

TEJINDER SINGH DHINDSA, J.

The present appeal is directed against the judgment of conviction and order of sentence dated 6.11.2003 passed by the Special Judge, Muktsar in terms of which the present appellants have been convicted and sentenced as under:

Under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act')	Convict Sukhwinder Singh is sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹2500/-. In default of payment of fine, he shall undergo further rigorous imprisonment for three months.
Under Section 3(1)(xi) of the Act	Each of the convicts is sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹2500/-. In default of payment of fine, the defaulter shall undergo further rigorous imprisonment for three months.
Under Section 506 of the Indian Penal Code	Convict Sukhwinder Singh is sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹2500/-. In default of payment of fine, he shall undergo further rigorous imprisonment for three months.

All the sentences were directed to run concurrently.

2. Mr.BS Sidhu, learned counsel appearing for the appellants prays for setting aside the judgment of conviction as also order of sentence dated 6.11.2003 on the basis of compromise that is stated to have been arrived at between the appellants and the complainant Jagtar Singh and victim Charanjit Kaur wife of Jagtar Singh. Even learned counsel appearing for the complainant-respondent No.2 makes a statement that a compromise has been entered into between the parties and he would have no objection to the setting aside of the judgment of conviction of the appellants.

3. It may be briefly noticed that the prosecution version was that complainant Jagtar Singh and his wife Charanjit Kaur belong to Chamar Community and are residents of village Lakhewali, Tehsil and District Muktsar. Both the appellants also belong to the same very village and are Jat Sikhs. The occurrence was stated to be of 29.7.1999 when Charanjit Kaur was bringing water in a bucket from the water channel (Khal), Sukhwinder Singh (appellant No.1 herein) had used contemptuous language against her and pertaining to her caste under the influence of liquor. Charanjit Kaur thereafter returned to her house. Twenty minutes thereafter, both the accused (appellants herein) are stated to have trespassed into the house of complainant Jagtar Singh and Charanjit Kaur at that time was working in the kitchen. Appellant No.2 Baldev Singh is stated to have caught hold of Charanjit Kaur from her arms and threatened as to how she had dared to enter into altercation with his son i.e. Sukhwinder Singh

(appellant No.1). Jagtar Singh complainant at that point of time was stated to be taking a bath and when he came out, Sukhwinder Singh accused manhandled him and threatened to kill him. Caste related remarks were also uttered. Upon complainant Jagtar Singh and his wife Charanjit Kaur protesting on such behaviour, both the accused (appellants herein) manhandled Jagtar Singh. Charanjit Kaur was then stated to have been dragged outside the house and into the street. Her shirt was torn and her dupatta fell down on the ground.

4. Such occurrence is stated to be the genesis of complaint having been lodged and criminal proceedings having been initiated which culminated in the conviction and sentence of the appellants as noticed hereinabove.

5. Learned counsel for the appellants states that the matter has been settled between the appellants and complainant Jagtar Singh as also victim Charanjit Kaur with the intervention of the elders and respectables of the village. It is stated that the compromise that has been arrived at between the parties is of their own freewill and without any pressure or coercion. Separate statements of complainant Jagtar Singh and his wife Charanjit Kaur have been recorded to such effect. Complainant Jagtar Singh has also filed an affidavit stating that an amicable settlement has been arrived at and that he would have no objection if the appellants are acquitted of the charges.

6. Learned counsel for the parties have further submitted in unison that the appellants as also the complainant and his wife are residents of the same very village and if the compromise and

settlement entered into is acted upon by this Court to set aside the judgment of conviction, it would promote peace and harmony between the parties who are otherwise neighbours.

7. A similar issue came up for consideration before a co-ordinate Bench of this Court in the case of **Balwant Singh v. State of Punjab** decided on 17.2.2010 wherein also appellant Balwant Singh had been convicted for an offence under Section 3 of the Act and a prayer had been made to set aside the judgment and conviction on the basis of compromise that had been entered into. This Court after having noticed the judgments of the Hon'ble Supreme Court in **Dr.Arvind Barsaul etc. v. State of Madhya Pradesh and another**, 2008(2) RCR (Criminal) 910, **Sukhwinder Singh and others v. State of Punjab and another**, 2008(3) RCR (Criminal) 991 and **Madan Mohan Abbot v. State of Punjab**, 2008 (2) RCR (Criminal) 429 and while setting aside the judgment of conviction of appellant Balwant Singh therein had held as follows:

"In view of the settled proposition of law and in view of the fact that the parties have compromised the matter with the intervention of the respectables of the village, it would be in the interest of justice to accept the compromise and to allow the parties to live amicably.

The dispute, in the present case, is totally personal in nature and, therefore, there is no impediment in accepting the compromise and setting aside the conviction order dated 11.2.2009 passed by the Special Judge, Gurdaspur.

Accordingly, the judgment and order dated 11.2.2009 passed by the Special Judge, Gurdaspur vide which the appellant was convicted under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is set aside and the appellant stands acquitted of the said charge."

8. For the same very reasons and keeping in view the fact that appellants herein have entered into compromise with Jagtar Singh and his wife Charanjit Kaur who is the victim, the impugned judgment of conviction and order of sentence dated 6.11.2003 passed by the Special Judge, Muktsar is set aside and the appellants stand acquitted.

9. Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

July 15, 2015
SRM

Note: Whether to be referred to Reporter? (Yes/No)