

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-A NO.692-MA OF 2012 (O&M)
DATE OF DECISION : 19th MAY, 2015

Banni @ Banwari

.... Appellant

Versus

State of Haryana & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

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Present : Mr. Sarfraj Hussain, Advocate for the appellant.

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SURINDER GUPTA, J. (ORAL)

This is an appeal against order of acquittal passed by Special Judge, Gurgaon, in complaint filed by appellant, acquitting private respondents for offence punishable under Sections 323 read with Section 34 IPC and Section 506 IPC and Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The incident which led to the filing of complaint find mentioned in para 1 of the judgment of the trial Court which reads as follows:

“The prosecution in this case was launched on the submission of complaint by complainant Banni @ Banwari against accused Ramu and Charni under Sections 323, 504, 506 IPC and 3/4 of The Scheduled Caste and Scheduled Tribes (prevention of atrocities) Act

1989 (for short Act) wherein it was alleged that complainant belongs to Chamar caste which has been declared as a Schedule Caste by the State of Haryana. Complainant is a permanent resident of village Abhaypur, Tehsil Sohna, District Gurgaon. Complainant had purchased a plot from Karan Singh, the real brother of the accused no.1 and 2 out of khasra no.109/17(3-5) 3 Kanals 5 Marlas to the extent of 9/65 shares situated in the Abadi of village Abhaypur. Accused no.1 and 2 were angry for purchasing the plot from their brother and they started threatening the complainant to grab the house of the complainant. The complainant filed a civil suit against the accused persons in which the Court directed the parties to maintain status quo regarding the property in question. The complainant constructed two rooms, two varandas and boundary wall and installed an iron gate. Immediately after the purchase of the property the complainant, was given the physical possession of the plot in question by the vendor on 25.11.2005. The accused persons i.e. Ramu and Charni broke the lock of the house of the complainant and called him by the names i.e. Chamar Dhed. Complainant raised alarm. On hearing noise Ramesh, Rajbir and Khyali came at the

spot and rescued the complainant while going away, the accused persons threatened to kill the complainant.”

The facts which weighed before the trial Court, while acquitting the private respondents, are enumerated as follows:

- (i) The prosecution failed to produce any evidence on record to prove that the complainant belong to Scheduled Castes or Scheduled Tribes.
- (ii) All the witnesses examined in this case belong to the caste of complainant and were interested witnesses except PW-3 Khyali who did not support the case of the prosecution.
- (iii) Regarding the alleged beating of the complainant there was no medical evidence.
- (iv) PW-4 Rajbir though supported the case of the complainant has come up with altogether a different story. As per him on the date of occurrence it was the complainant who had gone to the spot for taking possession of the plot which private respondents refused to handover and hurled abuses at the complainant. They (private respondents) have ousted the complainant from the said plot and have made clear their intention not to surrender the possession of plot to him. This belied the very basis of the case of the complainant that the private respondents came to the spot on 25.11.2005 and broke open the lock of his house. As per PW-4 Rajbir both the parties had started quarreling and abusing each other at the spot. The dispute

between the parties was regarding the land and qua said dispute a civil suit is pending between the parties where the order directing the parties to maintain status quo, has been passed.

I have heard learned counsel for the parties and perused the case file with their assistance.

It is not disputed that no documentary evidence was produced on record to prove that the complainant belong to scheduled castes or scheduled tribe. The perusal of the statement of PW-4 Rajbir also belies the entire version put-forth by the complainant rather it indicates that the genesis of the occurrence was different than as alleged by the complainant, who himself had gone to the spot to take possession of the plot, which the private respondents refused to deliver.

On perusal of the judgment of the trial Court and the evidence placed on record, I find no illegality or infirmity therein calling for any interference. No ground is made out to grant any permission to file this appeal, which has no merits and dismissed.

19th May, 2015
'raj'

(SURINDER GUPTA)
JUDGE