

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

**Criminal Appeal D-1803-DB of 2014
Date of Decision: October 16, 2015**

OmwatiAppellant

Versus

State of Haryana and others Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. Rajesh Arora, Advocate
for the appellant.

Mr. Vijesh Sharma, Deputy A.G., Haryana
for respondent No. 1-State.

Mr. Manoj Kaushik, Advocate
for respondent No. 1-A to 4.

T.P.S.MANN, J.

The appellant, who is a victim has filed the present appeal for challenging the judgment dated 31.3.2014 passed by learned Additional Sessions Judge, Gurgaon, whereby, respondents No. 1-A to 4 stand acquitted of the charges under Sections 323, 392, 394, 354, 506 read with Section 34 IPC and Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The case of the prosecution, in nutshell, is that on 27.10.2012 at about 5.00 p.m., the appellant along with her younger daughter Sakshi had gone to purchase radish from a

cart parked in the street. At that time, Himani and her sister, who were her neighbours, called her from the roof by abusing her in the name of her caste and stating that how could she purchase radish. The appellant was informed by her daughter that Himani and her sister had earlier also uttered derogatory words qua their caste to her. The appellant went to the house of Suresh Kumar to lodge a protest and called his wife outside but there was no response. After some time, Suresh Kumar and his brother-Jai Parkash came on a scooter and assaulted her by showing that she was falsely accusing their children. They also addressed the appellant in the name of her caste. When an alarm was raised by the appellant, her daughter-Sakshi came to her rescue. Suresh Kumar and Jai Parkash opened an assault on her. In the meantime, Himani, Neelam and Manish came there and they started assaulting the appellant and her daughter. On hearing the commotion, Neelam, the elder daughter of the appellant came forward to rescue her but all the accused pounced upon her as well. They tore her clothes and picked up her phone, which had fallen on the ground. They also removed her gold chain and ear rings. Her daughter Neelam was having a pregnancy of eight months at that time. She apprised the appellant that her gold chain was snatched by Jai Parkash. Thereafter, the appellant's daughter Sakshi was dragged by Suresh Kumar, Neelam, Himani

and Manish to their house. According to the appellant, Suresh Kumar had threatened them that he would not let them live in the colony and he also abused her in the name of her caste.

Having heard learned counsel for the appellant and on going through the impugned judgment of acquittal as well as the lower court record, this Court finds that when the appellant and her daughters Neelam and Sakshi were medico-legally examined by Dr. Deepak Taneja, no visible marks of injuries were noticed on them. Apart from an abrasion, on the left hand of Omwati and a bruise on the left side of neck of Sakshi, all the other injuries were complaints of pain. All of them were conscious upon their arrival in the hospital. Neelam, who was complaining of pain in her abdomen was referred for gynaecological opinion but no such opinion was sought by the Investigating Agency. Under these circumstances, a doubt is cast on the credibility of the prosecution evidence that the accused had assaulted appellant-Omwati and her two daughters Sakshi and Neelam.

It has come on the record that accused-Suresh Kumar and his wife Neelam had also received injuries, for which, they were medico-legally examined by Dr. Tarun Jhamb on 27.10.2012. It is another thing that even those injuries found on two of the accused were mainly complaints of pain but the fact remains that none of the prosecution witnesses have explained

those injuries. Further, Neelam, the daughter of the appellant was found to be habitual of falsely implicating persons in criminal cases. FIR Mark D2 was got registered by Neelam for offences under Sections 323, 452 and 506 IPC while FIR Mark D4 was also lodged by her for offence under Section 354-A IPC. As regards the commission of offences under Section 3 (i) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, no evidence has been brought on record that the accused had assaulted the witnesses for the reason that they belonged to a scheduled caste or with an intention to outrage their modesty.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

The appeal is without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

October 16, 2015
amit rana

**(GURMIT RAM)
JUDGE**