

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-276-MA of 2013 (O&M)
Date of decision: October 13, 2015

Vinod Kumar

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anil Kumar Garg, Advocate
 for the applicant.

INDERJIT SINGH, J.

Applicant-Vinod Kumar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Punjab and other respondents, challenging the impugned judgment dated 07.03.2013 passed by learned Addl. Sessions Judge, Ludhiana, whereby the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that findings returned by learned trial Court are not sustainable in the eyes of law and liable to be set aside.

I have heard learned counsel for the applicant and have gone through the record.

As per the record, the complainant Vinod Kumar filed a complaint against Gian Chand, Shanti Devi and Prince under Sections

323, 452, 500, 506, 34 IPC and Sections 3 and 4 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. As per complainant's version, complainant belongs to Ramdasia caste. Gian Chand and Shanti Devi lodged a false application against his father Raghbir Singh and Mujbil Seikh in the office of DGP, Punjab etc. on the allegations regarding the loan of ₹5 lacs on interest. On 16.06.2008, Gian Chand came to the house of complainant and asked Raghbir Singh that if he makes a statement that Mujbil Seikh has taken the amount in his presence, then he will withdraw the application against him (Raghbir Singh), otherwise he would take action against him with his influence. Raghbir Singh refused to give false statement. On 17.06.2008, they were called at Police Station and their statements were recorded which were true but not according to wishes of Gian Chand. At about 8.00 P.M., Gian Chand and his wife Shanti Devi forcibly entered the complainant's house and started abusing. Accused Gian Chand said 'chuharro chamaroo' you have made a great mistake by not making statement as per their wishes and also stated to hand-over the title deed of the house, otherwise to take possession of a 'chuhrey chamar' is not a big deal for him. Accused called his son namely Prince on phone. Prince along 7-8 unidentified persons came and caught hold the complainant from his neck and started abusing him. When parents of complainant tried to free him, then they slapped father of the complainant and pushed mother of complainant. Shanti Devi abused complainant's mother by saying 'chuhari haramjadi' and also manhandled her. All the accused

gave beatings and thrashed the complainant and his father. On hearing their cries, Sohbal Sonda, who was passing from there, entered with some people and freed them from the accused. It is further stated in the complaint that accused have defamed the complainant and his family on the name of caste.

Learned Addl. Sessions Judge, Ludhiana, after discussing the evidence on record, acquitted the accused of the charges framed against them. The Court held that the occurrence has taken place inside the house of the complainant and no witness of the public has gathered over there. Sobat Sonda, who was alleged to be present at the scene of occurrence has not been examined. So much so, even his existence becomes doubtful on the admission of PW2 Raghbir Singh wherein he has admitted that he does not know who was Sobat Sonda. None of the neighbour was examined to show that utterance made by the accused regarding their case were humiliating words and they lowered the image of complainant family in the eyes of neighbour's family and the words have been stated in public view.

As regarding the witness Ved Parkash examined by the complainant, the Court held that his name was not mentioned in the complaint and his name was also not figured in the list of witnesses. He is a related witness and interested in supporting the case of the complainant. Learned trial Court also held that complainant also failed to show that accused were aware of his being a member of the scheduled caste and they intentionally insulted with intent to humiliate them. It was not only missing in the complaint but also not proved by

the complainant. The Court also discussed the motive and the application moved by the accused on 26.04.2008 against complainant, his father Raghubir Singh and one Mujbil Seikh before Khanna police.

The Court, also from the evidence on record, held that prosecution has failed to show that any injuries were caused on the persons of Raghubir Singh and mother of complainant by the accused. There is no medical evidence on record to show any fist blows or any abrasions etc. having suffered by Raghubir Singh etc. or the mother of the complainant. The Court also discussed the fact that no application was brought on record to show that complainant ever approached the police. There is also unexplained delay of one month in filing the complaint. The Court further held that complainant belongs to U.P., but no Scheduled Caste certificate has been produced by him to show that he belongs to Scheduled Caste community in U.P. State.

From the record, I find that nothing has been pointed out at the time of arguments as to how the findings given by learned trial Court are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Court below. Nothing has been pointed out as to which evidence has been misread or which evidence has not been considered by the Court below. Rather, perusal of the record shows that the findings given by the Court below are correct, as per evidence and law. The evidence has been discussed by learned trial Court in right perspective. In no

way, the findings can be held as perverse. The judgment dated 07.03.2013 passed by learned Addl. Sessions Judge, Ludhiana, is correct, as per law and evidence.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

October 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE