

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-A-891-MA-2013 (O&M)

Date of decision: 14.07.2015

Kulvir Singh

...Appellant

Versus

Gurdas Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Rangpuri, Advocate for the applicant/appellant.

Rajan Gupta, J.

Appellant Kulvir Singh filed a complaint under sections 323, 452, 506/34 IPC and section 3 (1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the respondents. After recording the preliminary evidence, respondents were ordered to be summoned under sections 323, 452, 506 read with Section 34 IPC and under section 3 (1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The offence under section 3 (1) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 being triable by the Judge, Special Court, case was committed to the Court of Sessions. After appreciating the pre-charge evidence, learned trial court charge-sheeted the respondents for the offence punishable under sections 452, 323, 506 read with Section 34 of the IPC and Section 3 (1) (x) of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant again appeared as

PW1 and also produced Raghbir Singh as PW2, Balwinder Singh as PW3 and Daljit Singh as PW4.

After appreciating the entire evidence, the trial court came to the conclusion that the complainant had failed to substantiate the charge levelled against the respondents. The respondents were, thus, acquitted by extending them benefit of doubt. Aggrieved by the same, the appellant has filed the instant appeal alongwith an application bearing CRM-A-891-MA-2013 under section 378 (4) Cr.P.C. for grant of leave to appeal.

I have heard learned counsel for the applicant/appellant and given careful thought to the facts of the case.

After having re-scanned the entire evidence, this court is of the view that the finding of the trial court in acquitting the respondents is not perverse on any count. It is not possible to take a different view on the basis of available evidence. It is evident that the appellant himself stepped into the witness box as PW1 and examined Raghbir Singh as PW2, Balwinder Singh as PW3 and Daljit Singh as PW4. There is no evidence as to what derogatory words were uttered and by which accused against the caste of the complainant. It has also not been proved on record that the accused intentionally uttered derogatory words against the caste of the complainant publicly in order to humiliate him. As per the complainant, derogatory words were uttered in the house of the complainant. There is not even a single independent witness in whose presence derogatory words were used by the accused persons against caste of the complainant. The witnesses examined by the complainant

appear to be interested witnesses having inimical relations with the accused party and their testimony is not even supported by the complainant in his statement. The defence version put forth by the respondents seems to be more probable. As per defence, complaint had been filed due to village rivalry as accused had made efforts being village Sarpanch/Panch to eject him from the house which he was forcibly occupying. The complainant in his cross-examination has admitted that he was not in possession of any allotment letter in his name or in the name of his wife qua the house in which he had been residing. There are several contradictions in the evidence of the complainant-applicant.

Learned counsel for the appellant has not been able to show how the evidence has been misappreciated by the court below. There can be no doubt that there is complete lack of independent corroboration in the story of the appellant.

It is well settled that the order of acquittal is to be disturbed only if the same is palpably wrong, manifestly erroneous or demonstrably unsustainable resulting in miscarriage of justice. The case in hand is not of that type. I, thus, see no ground to interfere with the decision appealed against and decline grant of special leave to appeal.

Consequently, CRM-A-891-MA of 2013 is hereby dismissed.

(RAJAN GUPTA)
JUDGE

14.07.2015
'Rajpal'