

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

Crl. Revision No.907 of 2015

Date of decision: October 08, 2015

Manish

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vishal Kumar, Advocate for the petitioner.

Mr. Ashwani Gaur, Advocate for respondents No.1 to 3.

Mr. P.S. Ahluwalia, Advocate for respondent No.4.

Mr. Gaurav Dhir, DAG, Haryana for respondent No.6.

Rajan Gupta, J.(oral)

The case was initiated by complainant Manish (petitioner herein) who alleged that there was a history of dispute regarding the ancestral property between father of complainant and accused No.5, who is his real uncle. His real uncle grabbed the ancestral property. Number of civil and criminal cases were pending between them. On 15.9.2003 accused got a case registered against the complainant under sections 342, 363, 366A, 376 read with Section 34 IPC and 3/33 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to complainant, due to false registration of aforesaid case, he was subjected to harassment and torture by police. Complainant, thus, lodged the instant complaint alleging malicious prosecution, forgery of documents etc. On appreciation of evidence, trial court came to the conclusion that there was substance in the plea of the complainant and convicted them for offence under sections 219/120-B, 330/120-B and 506/120-B IPC and sentenced them accordingly.

Aggrieved, accused preferred appeals before the court of Additional Sessions Judge, Palwal. While hearing the appeals, the appellate court noticed that trial court had allowed recording of statements of CW6 to CW8 by a Local Commissioner. As the appellate court came to the conclusion that the same was in violation of Section 275 Cr.P.C., it remanded the case to the trial court for recording statements of witnesses i.e. CW6 to CW8, namely Manish, ASI Rajinder Singh and Kanwal Lal afresh.

I do not find any infirmity with the order. It is evident that during the criminal proceedings, demeanor of the witnesses has to be seen. No provision has been pointed out for recording evidence by appointing a local commissioner. In my considered view, appellate court was well within its powers to remit the case to the trial court for the limited purpose of recording evidence of CW6 to CW8 in order to ensure that there is no technical error in the proceedings. Thus, I find no merit in the present petition.

Dismissed. It is, however, directed that trial court shall conduct the proceedings expeditiously and conclude the same, in any case not later than six months.

(RAJAN GUPTA)
JUDGE

October 08, 2015
'Rajpal'