

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

**CRM 2563 of 2016 and
CRA D-1144-DB of 2015**

Date of Decision: January 25, 2016

Shamsher Singh

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE JUSTICE DR. SHEKHER DHAWAN**

Present: Mr. J.S. Mehndiratta, Advocate for the
applicant/appellant.

T.P.S.MANN. J.

Applicant/appellant Shamsher Singh, who had received injuries in the occurrence and, thus, a 'victim' as defined under Section 2 (wa) of the Code of Criminal Procedure has filed the present application for leave to appeal against the judgment dated 5.2.2015 passed by learned Additional Sessions Judge, Bhiwani, whereby, respondents No. 2 to 5 stood acquitted of the charges under Sections 147/148, 506 and 323, 436 read with Section 149 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

In nut shell, the case of the prosecution is that on 20.11.2006 at about 4.00 p.m. applicant/appellant Shamsheer Singh along with Sombir Singh son of Sukrampal left for bringing stones as his Munshi Om Premi and labourer Shiv Ram stated that there was no Rodi and they would load the vehicles only on the following day. On this, Sombir got enraged and went back with his vehicle. At about 9.00 p.m., one vehicle, make Scorpio, bearing registration No.HR-61-3931 driven by respondent No.4- Ashok and respondents No. 2, 3 and 5, namely, Dharmender, Sombir and Amit @ Babbal besides one Bansi were sitting therein, came there. All of them were armed with lathies and dandas and were also drunk. After reaching near the jhuggis of the labourers, they raised a lalkara that they would teach a lesson for not loading rodi. All of them set the jhuggis on fire. They also entered the jhuggis of other labourers and started beating and caused injuries to Meera, Kailashi, Ranjit, Gobind, Ajwas, Mahender, Shiv Ram and Sukrampal. When the complainant and others protested, the assailants caused them injuries and also threatened to kill them. The complainant rescued the labourers and, thereafter, all the assailants fled away from the spot. The complainant and others brought the water tanker and extinguished the fire.

Having heard learned counsel for the applicant/appellant and on going through the record as well as

the judgment passed by the trial Court, this Court finds that PW8 Sukrampal and PW9 Jagbir did not state anything about the occurrence, which had taken place on 4/4.30 p.m. Even complainant-Shamsher Singh, who was examined by the prosecution as PW5 was not present at the spot at 4.30 p.m. rather he was informed by PW10 Shiv Ram on telephone. PW10 Shiv Ram went on to state that the jhuggis were put on fire at 4.30 p.m. He did not state anything about the occurrence which according to the prosecution had taken place at 9.30 p.m. PW12 Ranjit had claimed that he was one of the injured, having received injuries in the occurrence. However, his identity was doubtful as the signatures put by him after his evidence was recorded, when compared with those on the MLR of Ranjit, were found to be different. Rather the signatures on the MLR tallied with that of Ranjit who appeared as DW1 and went on to state that it was complainant Shamsher Singh, who had put the juggis on fire and named the accused falsely. Even otherwise, no household articles got burnt due to the torching of the juggis. As such, it cannot be said that dwelling units have been set on fire. Further, according to the prosecution, the fire was extinguished by summoning a water tanker but the driver of the water tanker, who was the best witness to prove about the juggis being on fire, was not examined by the prosecution in support of its case.

As regards the charge under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, it may be noticed that only PW5 Shamsheer Singh, claimed that the injured and the labour present at the spot belonged to a scheduled caste or scheduled tribe. There is no evidence on the file, from which, it could be inferred that the injured or the labour belonged to either a scheduled caste or a scheduled tribe.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the trial Court, which is based on proper appreciation of evidence.

The application being devoid of any merit is, accordingly, dismissed. Leave to appeal is declined and the appeal is dismissed.

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

January 25, 2016
amit rana

**(SHEKHER DHWAN)
JUDGE**