

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

CRM-A-1297-MA of 2015 (O & M)

Date of decision : 13.5.2016

Joga Singh

.....Applicant

v.

State of Punjab and another

.....Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. Harshit Sethi, Advocate
for the applicant

RAMENDRA JAIN, J.

On statement Ex.PA of the applicant-Joga Singh, respondent No.2-Sukhwinder Singh along with his five companions was booked and tried under Sections 452, 148, 307, 326, 324, 323, 427 and 325 read with Section 149 IPC and Section 3(1)(x) of the Scheduled Caste and Schedule Tribes (Prevention of Atrocities) Act (in short “the Act”), on the allegations that on 5.12.2011 they, while armed with deadly weapons came to the house of the applicant in two vehicles and a tractor trolley and caused injuries to him and his nephew, besides damaging their household articles. The motive behind the occurrence was that Hardev Singh assailant intended to include the area of passage going to the revered place of Baba Kasoana in his land to which the applicant had objected.

On appraisal of evidence, the trial Court while acquitting respondent No.2, convicted his companions under Sections 452, 307, 326, 325,

324, 323 IPC substantively or with the aid of Section 149 IPC vide impugned judgment dated 31.3.2015.

Being aggrieved, the applicant-complainant has filed the instant application under proviso to Section 372 Cr.P.C. seeking leave to file the accompanying appeal for conviction of respondent No.2 under the aforesaid sections of the Indian Penal Code as well as under Section 3(1)(x) of the Act.

Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. There was no scope of acquittal of respondent No.2 in view of the foolproof and flaw-less depositions of the prosecution witnesses. Respondent No.2 had caused injury to Dheer Singh on his head which was declared grievous in nature by PW15 Dr. Jasbir Singh. Thus, he has wrongly been acquitted.

We have given our thoughtful consideration to the above submissions and find the present application completely devoid of any merit for the reasons to follow.

(i) PW15 Dr. Jasbir Singh, while medico legally examining Dheer Singh found four injuries on his body, out of which Injuries No.2 to 4 were declared simple in nature and Injury No.1 as grievous having been caused with a blunt weapon. Though the aforesaid injuries were attributed to respondent No.2, but the prosecution could not prove the same, because Dheer Singh as PW7 turned hostile. He was cross examined at length by the public prosecutor, but nothing favourable to the prosecution showing involvement of respondent No.2 could be elicited from his mouth. During his cross examination PW 7 Dheer Singh testified that he never got recorded

in his statement Ex.PW7/A that respondent No.2-Sukhwinder Singh armed with gandasi was also present with his companions and had given gandasi blow on his head. Hence, the prosecution has miserably failed to establish complicity of respondent No.2 from any angle in the present occurrence.

(ii) No Scheduled Caste Certificate of the complainant side was produced on record by the prosecution. Hence in the absence of the same, the charge under Section 3(1)(x) of the Act is not made out.

(iii) That apart, none of the injured witnesses deposed about complicity of respondent No.2 causing injury with gandasi to PW7 Dheer Singh.

Learned counsel for the applicant has miserably failed to put any dent in any of the findings of the Court below. We have also gone through the impugned judgment and found no illegality or perversity in the same.

Accordingly, the application being completely devoid of any merit, is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

13.5.2016
Ashwani