

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-578 MA-2016(O&M)

Date of decision: 04.05.2016

Sham Sunder

.....Applicant

versus

Virender Jain @ Babu and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sandip Kumar Sharma, Advocate for
Mr.Brijender Kaushik, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

CRM No.9755 of 2016

For the reasons mentioned in the application, it is allowed and 21 days delay in filing the application for grant of leave to appeal stands condoned.

CRM-A-578 MA-2016

This application has been filed under Section 378(4) Cr.P.C. for leave to appeal against the judgment of conviction dated 22.12.2015 and order of sentence dated 23.12.2015, passed by learned Additional Sessions Judge, Amabla.

The present petitioner had filed a criminal complaint under Sections 323, 504, 506, 427, 341 read with Section 34 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention

of Atrocities) Act, 1989.

It was alleged in the complaint that accused Nos.1 and 2 had installed a big machine in the residential premises and are using LPG and generator sets as a result of which vibrations hit the adjoining houses and caused public nuisance. Accused are also manufacturing some acid, smell thereof spread in the locality. Accused No.3 used to favour accused No.1 and 2. In the evening of 22.4.2007, accused along with their workers entered the house of the complainant and attacked him and also abused the complainant by his caste. Lower Court has referred to the litigation between the parties. Reference has been made to a suit for permanent injunction, wherein injunction was sought against the working of generator set, welding gas and LPG cylinder. The said civil suit was filed on 27.2.2007, wherein no reference is made to the present occurrence, which took place on 22.4.2007.

Lower Court after going through the statement of the complainant and the evidence disbelieved the version of the complainant. It was also held that the complainant could not prove his SC/ ST certificate beyond shadow of doubt. Accordingly, after examining the entire evidence, learned Additional Sessions Judge, Ambala acquitted the accused for the offences under Sections 323, 341, 427, 504 read with Section 34 IPC. Accused No.1 and 3 were also acquitted for the offences punishable under Section 3 of SC/ ST Act. However, the accused were held guilty under Section 506 read with Section 34 IPC and accordingly, released on probation.

After going through the judgment and reasoning given by

the trial Court, I do not find any illegality or infirmity in the same.

Therefore, application for leave to appeal is dismissed.

04.05.2016

gk

**(Kuldip Singh)
Judge**