

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. A-216-MA of 2014 (O/M)
Date of decision : 21.1.2016

Kamlesh Kumari

..... Appellant

Versus

Srishta Devi and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Arora, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

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This is an application under Section 378 (4) Cr.P.C. for grant of leave to appeal against the order dated 22.11.2013, passed by the learned Special Judge, Pathankot, vide which the complaint of the present applicant under Section 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Sections 323, 506, 509, 148, 149 IPC, was dismissed.

Impugned in the present appeal is the order dated 22.11..2013, passed by the learned Special Judge, Pathankot, vide which the complaint of the present appellant for offence under Sections 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Sections 323, 506, 509,

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148, 149 IPC, was dismissed.

I have heard the learned counsel for the appellant and have also carefully gone through the file.

It comes out that in the complaint itself, it is stated that there was election of Panchayat in the village. The complainant party lost the election. Accused No. 1 Sarishta Devi won the election. It was on the day of the election i.e. 19.7.2008 that the present occurrence is alleged to have ensued. In the complaint, it was alleged that the accused had passed some bad remarks against the caste of the complainant and also hurled the abuses and that the complainant was dragged and beaten up by the accused.

The lower Court has observed that there is no MLR on file nor the complainant got herself examined. The statement of the complainant was also produced, in which she has merely stated that she (accused No. 1) had abused, but the exact words allegedly used by the accused are not mentioned, so as to enable the Court to make out whether offence under Sections 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is attracted or not. The other witnesses of the complainant also talked about the abuses. They have also omitted the exact words alleged to be used by the accused. The complainant admitted that Sarishta Devi (accused No. 1) had lodged a criminal case against her and that they had asked her to effect compromise. The witnesses of

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complainant, namely, Buti Ram and Rachhpal Singh are the accused in the said criminal complaint. Thereafter, the present complaint was filed. Therefore, the lower Court has rightly held that the allegations levelled by the complainant are not proved.

The complaint appears to have been filed as counter blast to the criminal case, lodged by Sarishta Devi, who had won the election. The witnesses are accused in the said case. The statements of the complainant and other witnesses contradicted each other on material aspects of the case. Thus, the offence under Sections 3/4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is not made out. In the absence of MLR and disprovement of injuries, the offence of causing simple injury is also not made out. As such, the complaint was rightly dismissed by the lower Court. Therefore, I do not find any cogent ground to interfere in the impugned judgment. Hence, the application under Section 378 (4) Cr.P.C. is dismissed.

(KULDIP SINGH)
JUDGE

21.1.2016
sjks