

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

CRM No.A-523-MA of 2015 (O&M)

Date of decision: November 29, 2016

Asha Bharti

...Applicant

Versus

Gurdev Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.C.Arora, Advocate
for the applicant.

INDERJIT SINGH, J.

CRM No.10234 of 2015

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 192 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-523-MA of 2015

Applicant-Asha Bharti has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents Gurdev Singh, Hira Singh and Sadha Singh, challenging the impugned judgment dated 03.07.2014 passed by learned Addl. Sessions Judge, Patiala, vide which the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is,

therefore, prayed that leave to appeal be granted.

As per the record, the complainant Asha Bharti filed a complaint against accused Gurdev Singh, Hira Singh and Sadha Singh under Sections 3, 4, 5, 6 and 7 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and under Sections 341, 323, 354, 307, 363, 506 read with Section 34 IPC registered at Police Station Sadar, Patiala. The brief facts of the complaint as noted down in the judgment passed by learned Addl. Sessions Judge, Patiala, are as under:-

“1. Complainant Asha Bharti filed the complaint under Sections 3, 4, 5, 6 and 7 of Scheduled Caste and Scheduled Tribes Act & under Sections 341, 323, 354, 307, 363, 506 read with Section 34 of IPC against the accused named above on the allegations inter alia that she is permanent resident of village Phaloli, Shanti Nagar, Patiala. At present she is Member Panchayat of the village. Earlier she was Sarpanch of her village. She belongs to Ramdasia caste, which has been declared Scheduled Caste. On 14.3.2007, when the complainant was coming back from Mini Secretariat, Patiala and reached near the over bridge at about 3 p.m., accused Gurdev Singh and Sadha Singh came on their motor cycle and pulled out her Dupatta, used abusive and unparliamentary language to her and they also tried to outrage her modesty. The complainant reported the matter to the police, but no action was taken. Due to this, the accused persons became more aggressive and on 16.3.2007, at about 10.30 a.m., when the complainant was going to meet Mistri Suraj Bhan of Bahadurgarh, who had to start the work of construction of toilets for the poor villagers, as per the scheme of Punjab Government, accused no.1 Gurdev Singh was sitting on his coat and his car was parked in the street of the village, whereas his house is away from that place. When the complainant passed through the street, the accused persons started giving beatings to her. Accused Gurdev Singh and Sadha Singh caught hold the complainant from her hairs and accused Hira Nath was associated with them. The accused also planned to kill and kidnap the complainant and they also openly used derogatory remarks against her caste. The complainant was saved from the accused persons by the co-villagers including Ganga Devi, Kamla Devi, Ram Wati, Radhey Sham, Sita Ram. The medical treatment of the accused was conducted in Rajendra Hospital, Patiala. The complainant approached the police for registration of case against the accused but no action was taken by the police. Then the

complainant approached the Punjab State Human Rights Commission, Chandigarh and an enquiry report was received from ADGP of the Commission dated 28.5.2008, wherein it was stated that action under Sections 107/151 Cr.P.C. was not sufficient. As such, Inquiry Officer, PSHRC indicted Inspector Krishan Kumar Panthe, SI Baldev Singh and SI Karnail Singh, who were posted at that time, who had not acted in discharge of their duties. In spite of the aforesaid facts, the police failed to take any action against the accused persons and did not register any FIR against them. The accused in connivance with the police got initiated false proceedings under Section 182 IPC against the complainant in order to save their skin”.

The accused were charged under Section 341, 323, 506 read with Section 34 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

The complainant examined herself as CW-1, CW-2 Dr.Kirpal Singh and CW-3 Smt.Raji and closed the evidence. In the statement under Section 313 Cr.P.C., the accused pleaded innocence, false implication in the case and they stated that the complainant remained Sarpanch of village Phaloli from 2003 to 2008 and she mis-utilized the panchayat funds. They moved applications against the complainant to the BDPO, DDPO, Deputy Director of Panchayat and Deputy Commissioner to produce the record of the panchayat funds but the complainant did not produce the record. The complainant was suspended from the post of Sarpanch by the concerned office for the above-said reasons and due to this grudge, the complainant moved various false applications and filed the present false complaint.

In defence, accused examined DW-1 Sarup Singh, DW-2 Head Constable Jagat Singh, DW-3 Dilbag Singh, DW-4 Harbans Singh, DW-5 Sanjiv Sharma and DW-6 Sushil Kumar.

CW-2 Dr.Kirpal Singh, who medico legally examined, the complainant, found six injuries on her person and opined that all the injuries

were simple in nature and caused by blunt weapon.

Learned Addl. Sessions Judge, Patiala, vide judgment dated 03.07.2014, after appreciating the evidence, acquitted the accused-respondents.

Aggrieved from the above-said judgment, present appeal along with application for leave to appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

The perusal of the record shows that occurrence is of 16.03.2007 and the complaint has been filed on 23.09.2008 i.e. after a long delay. Secondly, I find that as per MLR, two abrasions were found on little finger and ring finger and other injuries were also abrasions. All the injuries were simple in nature. CW-2 Dr.Kirpal Singh in cross-examination stated that possibility of injuries being self suffered cannot be ruled out.

To corroborate her version, the complainant examined CW-3 Raji. Learned trial Court has appreciated her statement in right perspective and has not believed her statement. She stated in her cross-examination that at the time of occurrence, she was sitting in her house idle in open courtyard. There is boundary wall in the house, the height of which is 4-5 feet. The place of occurrence is half km away from her house. She also stated that after hearing the noise, she reached at the spot. Accused were present at the spot. This statement of CW-3 Raji shows that she was not present at the spot at the time of occurrence and her statement cannot be relied upon.

Furthermore, most important fact is that regarding same occurrence, FIR was also got registered, which was found false by the

police. Learned trial Court has discussed the defence evidence in detail, which proves the motive for filing the complaint and further it is in the evidence that the police has started proceedings under Section 182 IPC against the present complainant for filing false application before it.

The perusal of the findings given by the Court below shows that learned trial Court has appreciated the evidence in right perspective. In no way, the findings can be held as perverse. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

In view of the above discussion, I find that the impugned judgment dated 03.07.2014 passed by learned Addl. Sessions Judge, Patiala, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

November 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No