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

CRA-S-478-SBA of 2005

Date of decision: September 29, 2017

Amarjit

.....Appellant

Versus

Amrit Rai and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: None for the appellant.

Mr. Dhruv Dayal, Sr. DAG Punjab.

A.B. CHAUDHARI, J (Oral)

Being aggrieved by judgment dated 13.10.2004 passed by the Special Judge, Hoshiarpur in SC/ST complaint case No.1 of 08.02.2002 by which the trial Court acquitted respondent No.1-accused for the offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act'), the present appeal was filed by the complainant.

None for the appellant as well as respondent No.1-accused. State is represented by Mr. Dhruv Dayal, Sr. DAG Punjab.

Perused the impugned judgment as well as record. Learned trial Court made assessment of evidence that was tendered before it. The learned trial Court discussed the evidence of each and every witness and found that there was an old enmity between the parties inasmuch as civil suit was filed amongst the parties. The trial Court also found that the prosecution failed to prove about the exact

offensive words allegedly used, for constituting the offence under section 3(1)(x) of the SC/ST Act. The trial Court found that the evidence was highly discrepant and it was not possible to believe the evidence. He, therefore, extended benefit of doubt to the accused and recorded the order of acquittal. I quote Para 14, the reasons given by the trial Court under the impugned judgment as under:-

“14. The prosecution case depends upon the oral evidence because the copy of the complaint allegedly moved to the police immediately after the occurrence, has not been tendered in support of the prosecution case. The court would require unexceptional evidence to establish the case, when the witnesses are proved to be having ulterior motive. It cannot be doubted that prosecution must prove the exact offensive words allegedly used by the accused for attracting section 3(1)(x) of the Act, 1989. The prosecution case is highly discrepant on this important aspect. There is detailed reiteration of the offensive words allegedly used by the accused in four different sentences, highlighted in the bold letters, in the story of the prosecution. Amarjit complainant PW-1 stated that the accused remarks him as Kutia Churia and that he belongs to “Mang Khani Jaat which is worse than animals and did not utter anything else. This belied the whole version for attracting the remaining part of the offensive remarks. Apart from making the remarks against the caste of the complainant, it was also alleged in the complaint that the accused abused him in the names of his mother, daughter and sister which he refused to reiterate in the witness box. Makhan Singh PW2 was present in his house at the time of alleged occurrence. He heard the loud voice from the chowk. He went there and saw the accused calling the

complainant in the name of mother and sisters and also remarked as 'Kutta Chura' and other filthy language. The witness did not support the testimony of the complainant about the accused calling him as Mang Khani Jaat which is worse than animals. The third witness Karti Ram also reached the spot on hearing loud noise. According to him accused used the words 'Kurre Chure' are even worse than the animals and he would not permit them to live in the village. The above mentioned discrepancy appearing in the testimony of the witnesses and also in comparison with the story propounded by the complainant would be enough to reject the whole version."

Agreeing with the finding by the trial Court above, I do not think that the reasons given by the trial Court can be said to be perverse so as to call for interference in the appeal against acquittal particularly in the light of the decision of Apex Court in the case of **Darshan Singh versus State of Punjab**, 2010 Vol.2 Supreme Court Cases 333, in Para 61.

Dismissed.

(A.B. CHAUDHARI)
JUDGE

September 29, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No