

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

**CRA-S-1010-SB-2014 (O&M)  
Date of decision: - 28.8.2017**

**Prem Kumari**

**.....Petitioner**

**versus**

**State of Haryana and ors**

**.....Respondents**

**CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: - Mr. Bhupander Ghangas, Advocate for the appellant.

**ARVIND SINGH SANGWAN, J (ORAL)**

Challenge in the present appeal is to the order dated 21.12.2013 passed by the Additional Sessions Judge, Bhiwani vide which respondents No. 2 and 3-accused have been acquitted of the charges under Sections 323, 506, 34 IPC and Sections 3/33/89 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1889 (for short the 'SCs and STs Act').

As per the prosecution version, on 29.5.2012, appellant, submitted a complaint before the police authority that she is an anganwari worker and at about 9.30 A.M., respondents-accused under the influence of liquor started abusing her in the name of her caste; threatened to kill her; gave her leg & fist blows and while leaving, again threatened to kill her.

On the basis of aforesaid statement, FIR was registered against respondents-accused; they were arrested and granted bail. On completion of the investigation a report under Section 173 Cr.P.C was submitted and the case was committed to the Court of Sessions, vide order dated 3.8.2012, passed by the

Illaqa Magistrate. Thereafter, charges were framed against respondents/accused under Sections 323 read with Section 34 IPC, Section 506 read with Section 34 IPC and Sections 3(X) of the SCs and STs Act vide order dated 3.10.2012 passed by the then Additional Sessions Judge (I), Bhiwani. The respondents/accused pleaded not guilty and claimed trial.

Thereafter, prosecution evidence was led, appellant-complainant appeared as PW-1, Savitri, the alleged eyewitness appeared as PW-2, E-ASI, Jagbir Singh as PW-3, Lajja Ram SI (retired) as PW-4, Dharmender Singh, Draftsman as PW-5, Lady Constable Ravita No. 523 as PW-6, Rajesh Kumar ACTP as PW-7 and one Suresh Kumar Hooda ACP appeared as PW-8. Appellant, in her statement, while appearing as PW-1, narrated the version given in the FIR and also submitted that she was beaten up and harassed by respondents-accused. However, she submitted that she was never medico legally examined and despite her moving a complaint with the Scheduled Castes and Scheduled Tribes Commission on 10.5.2012, no action was taken. She further stated that she cannot tell the names of the persons who were present in the Panchayat which assured that they will pacify the matter.

PW-2 Savitri, alleged eyewitness, however, did not support the prosecution version and was declared hostile. In her cross-examination, she denied that she had given the statement Ex. PB on 2.5.2012 and that she along with complainant -Prem Kumari was present in the anganwari, where respondents-accused allegedly abused her and gave beatings to her.

PW-4 Lajja Ram, stated that he had conducted the investigation of the case partially and arrested respondents-accused. Later on, investigation was

transferred to PW-8, Suresh Kumar Hooda, DSP, Dadri. This witness proved the application Ex. PA filed by complainant. On the basis of which the formal FIR was registered. PW-3, EASI Jagbir Singh is a formal witness who prepared the computerized copy of the FIR as Ex. PD.

PW-5 Dharmender Singh, draftsman prepared a site plan (Ex. P-5), PW-6, Ravita is also a formal witness, who submitted the special report to the Illaqa Magistrate.

PW-7 Rajesh Kumar stated that after completion of the investigation, he has submitted the report under Section 173 Cr. P.C. and similarly PW-8 Suresh Kumar, ACP stated that he has also conducted the investigation partly and added Section 3 of the SCs and STs Act before submitting the report under Section 173 Cr. P.C. Thereafter, statement of the respondents-accused under Section 313 Cr. P.C was recorded wherein, they denied the allegations and pleaded innocence. However, no defence evidence was led.

It is submitted on behalf of the appellant that as per version given in the FIR and supported by her, while appearing as PW-1, respondents-accused who were the nephew of the then Sarpanch and brother of one of members of Panchayat, in a public view abused her in the name of her caste as she belongs to scheduled caste, gave her beatings in the presence of eye witness PW-2 Savitri. Therefore, the findings recorded against the respondents-accused are primarily proved and respondents have been wrongly acquitted by the trial Court. Learned trial Court has recorded the findings as under: -

“19. Now, the question arises whether the evidence led by the prosecution inspires the confidence or not and whether there is any force in the contentions of the learned defence counsel or not?

20. PW1 Prem Kumari has stated about the commission of the offence committed by the accused present in the court with her, but her testimony also reflects that she earlier lived with Kuldeep and she did not solemnize the marriage with him and she had worked of stitching in the factory of Kuldeep and that a daughter took birth out of them and she is residing with Kuldeep. Her husband, namely Suresh Kumar is missing since 28.1.1999. There is no evidence on the file why he is missing and whether the complainant has tried to get him searched or not. It has also come in the suggestion of the accused that due to the money dispute of the accused and complainant of loan, the complainant has levelled allegations against the accused. Although, it reflects that the complainant and accused are known to each other. The complainant has also, stated the occurrence in the presence of her colleague Savitri, whereas said Smt. Savitri aged 55 years PW2 has denied knowing anything about the case. Therefore, the testimony of PW1 is uncorroborated and in the considered opinion of the Court, it is not safe to reach to the conclusion about the guilt of the accused for the commission of the offence without any corroboration. Therefore, it is held that prosecution is not able to prove its case against the accused beyond the shadow of the reasonable doubt. Hence, the same is given and the accused are acquitted of the charges levelled against them.”

After hearing learned counsel for the appellant, I find no substance in the present appeal. Admittedly, the alleged eye-witness, PW-2 Savitri has not supported the prosecution version and there is no independent corroboration to the statement of complainant who appeared as PW-1. It has also come on record that both appellant -Prem Kumari as well as PW-2 Savitri were working in anganwadi and the allegations relating to abusing in the name of caste at a place which was not a public place in the public view. It is the own case of the appellant that subsequent to the alleged incident there was a panchayat convened in the village regarding the settlement of the matter and only thereafter, the complaint was filed. However, no witness from the panchayat was examined to corroborate version of the appellant.

Since, the independent witness PW-2 Savitri has not supported the case of the appellant, trial Court has rightly held that respondents-accused are entitled to benefit of doubt.

In view of above, I do not find any illegality or infirmity in the order passed by the trial Court on 21.12.2013. Therefore, present appeal stands dismissed without costs.

28.8.2017  
*preeti*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*  
*Whether Reportable*

*Yes/No*  
*Yes/No*