

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

**CRA-S-4263-SB-2013
Date of decision: 01.03.2017**

Shakuntla

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravi Malik, Advocate,
for Mr. Sanjeev Kumar Panwar, Advocate,
for the appellant.

Mr. D.R. Singla, DAG, Haryana.

Ms. Chhavi Sharma, Advocate,
for respondent Nos.2 to 5.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 01.10.2013 passed by the Additional Sessions Judge, Palwal, vide which, accused-respondent Nos.2 to 5 have been acquitted of the charges framed against them under Sections 452, 323, 354, 506 read with Section 34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Brief facts of the case are that on 04.04.2011, complainant-Shakuntla made an application to the Deputy Superintendent of Police, Palwal to the effect that she was Sarpanch of village Raidaska and belonged to Harijan community. There was a proposal in the village to construct a

lady *chaupal* for which grant was received from the Government. In this regard, a resolution was passed by the village Panchayat. However, Chander Pal was opposing this proposal. Brother of Chander Pal namely Samey Singh along with Surender, Tejan, Suresh, Vijay were also opposing the construction of lady *chaupal* in the village. Accused-respondent Nos. 2 to 5 were in illegal possession of the property where the said Chaupal was proposed to be constructed. Vijay and Surender also wanted to grab certain other land belonging to the Gram Panchayat. Complainant-Shakuntla and her husband had been objecting to the same. Due to this reason, accused-respondent Nos.2 to 5 were inimical towards the complainant party. At number of times, complainant was given threats and used abusive language by these persons. On 31.03.2011, at about 8.30/9.00 P.M., all the accused persons armed with weapons like *lathis*, *dandas*, *sarias* and *kattas*, forcibly entered the house of the complainant and started abusing her. She was given beatings in the presence of her husband who came to rescue her. They used objectionable words “chamar and dhed” against the complainant and dragged her in the street. Accused Samey Singh and Sunder tried to outrage her modesty by tearing her clothes and beat her with *dandas* and fist blows. Vijay and Surender took a *desi katta* and threatened the complainant and her husband that if, she tried to get the property vacated, she will be killed. Hearing the noise, Charan Singh, Ranjit, Raj Kumar and Dharam Pal came at the spot and saved the complainant and her husband from the clutches of accused-respondent Nos.2 to 5. In this background, FIR Ex.PA/1 was registered at Police Station Sadar Palwal and investigation commenced. Site plan of the place of occurrence was prepared. During the course of investigation, accused-respondents were arrested. However,

Samey Singh and Chander Pal were found innocent and kept in column No.2 of the report under Section 173 Cr.P.C. On conclusion of investigation, challan was presented before the Illaqa Magistrate, which was later on, committed to the Court of Sessions.

On appearance of the accused-respondent Nos.2 to 5 in Court, charge under Sections 452, 323, 354, 506 read with Section 34 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was framed against them, to which, they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Shakuntla-complainant (PW-1), Charan Singh (PW-2), Mahender, husband of complainant (PW-3), ACP Narender Kadiyan (PW-4), HC SarwanKumar (PW-5) and Constable Anil Kumar (PW-6). On conclusion of prosecution evidence, statements of accused-respondent Nos.2 to 5 under Section 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded false implication.

The trial Court, after going through the evidence led by the parties, acquitted accused-respondent Nos.2 to 5 of the charges framed against them. Hence, this appeal.

A criminal case dated 01.04.2011 had been registered at the behest of accused-respondents against the members of the complainant party. This complaint included two sons of the complainant. Charan Singh (PW-2) is the only eye witness in the present case. As per his deposition, on 31.03.2011, he heard some noise and saw Samey, Vijay and Sunder with 2/3 persons dragging Shakuntla out of her house. He came at the spot and pushed Shakuntla and her husband inside their house and thereafter, bolted

the door. At that time, accused were addressing Shakuntla by her caste as “dhed chamar” and threatening to teach her a lesson. At that stage, the witness was declared hostile. During his cross-examination, he stated that Shakuntla's modesty was outraged as the accused had torn he clothes. The reason for this conflict was that Shakuntla was making a *chaupal*, whereas the accused-respondents were not happy with this construction. Charan Singh (PW-2) was the only eye witness of the occurrence and as per his deposition, he had pushed Shakuntla and her husband inside the house and thereafter, bolted the house. In the earlier complaint made by the accused against the complainant party, sons of Charan Singh (PW-2) were also arrayed as accused. Therefore, this witness could be said to an interested witness. House of Charan Singh was situated at a distance from the house of Shakuntla (present complainant). At the time of incident, sons of Charan Singh were also present in the house. However, none of them came along with Charan Singh at the spot. Nobody else from the vicinity came at the spot in order to rescue complainant-Shakuntla. The trial Court has examined the deposition of Shakuntla (PW-1), Charan Singh (PW-2) and Mahender Singh (PW-3) in comparison with the original statement made by the complainant as Ex.PA. As per complaint Ex.PA, complainant-Shakuntla belonged to a minority community and was a lady Sarpanch of the village. She wanted to construct *chaupal* in the village. Accused Samey and Suresh were also members of the Panchayat. They had also signed the resolution regarding construction of the *chaupal*. If the lady Sarpanch (complainant) was getting threats from other members of the Panchayat, then why she did not report this matter to the police. There was another incident, which had taken place on 01.04.2011, regarding which, a criminal complaint was made

against the complainant party and a case under Section 307 IPC was registered. However, a cancellation report was presented in the said case and protest petition is pending adjudication. Rivalry between the two faction was writ large. As per allegations levelled by the complainant, accused were armed with *kattas*, *knives*, *dandas* etc., however, nothing was recovered during investigation. Even if, the version of only eye witness Charan Singh (PW-2) is to be taken into consideration that he had locked the complainant and her husband in the house, the version given in Ex.PA becomes doubtful.

In this case, the prosecution has miserably failed to lead any cogent and convincing evidence to substantiate the allegations levelled in the FIR. In the absence of any cogent and convincing evidence against the accused-respondents, scope of interference in the impugned judgment is very limited. Accordingly, having examined the impugned judgment, no illegality, much less perversity has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Dismissed.

01.03.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No