

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

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**CRM-A-1369-MA-2016 (O&M).
Date of Decision: 09.08.2017.**

Paramjit Kaur

....Applicant.

Versus

Pawan Kumar and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Gaurav Grover, Advocate for the applicant.

Ramendra Jain, J.(Oral)

CRM-23167-2016

For the reasons mentioned in the application, delay of 53 days in filing the application for special leave to appeal is condoned.

Application stands disposed of.

CRM-A-1369-MA-2016

Through this application under Section 378(4) of the Code of Criminal Code (for short, 'Cr.P.C.), prayer has been made for grant of special leave to appeal against the judgment of acquittal dated 02.04.2016 passed by learned Additional Sessions Judge/ Special Judge, Ambala.

Briefly stated, on 02.12.2014, when the applicant-Paramjit Kaur had gone to the depot of respondent No.1-accused Pawan Kumar, to take the ration, he uttered castiest remarks (Chamari) to the applicant in the presence of several men and women present there. Respondent No.1-accused also said that who had prepared ration card of the applicant and

they come like beggars to take ration. He will not give any ration to her as she had not honoured his demand. Earlier also, respondent-accused used to keep an evil eye upon the applicant. The respondent-accused was habitual of embezzlement of ration by making false entries in the ration register. The respondent-accused had insulted the applicant within public view, which has caused damage to her reputation. The respondent-accused also threatened to kill her.

Qua the above incident of 02.12.2014, the applicant filed a complaint on 28.07.2015 against the respondent-accused i.e. after around eight months, whereupon F.I.R. No.121 dated 28.07.2005 under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act') and Section 506 of the Indian Penal Code, was registered at Police Station Sadar, Ambala, District Ambala.

On commitment of the case to the Court of Sessions/Special Court, the respondent-accused was charge sheeted under Section 3 of the Act. The prosecution, in support of its case, examined as many as ten witnesses. After recording the statement of the respondent-accused under Section 313 Cr.P.C. and hearing both sides, the respondent-accused was acquitted vide impugned judgment dated 02.04.2016.

Learned counsel for the applicant contends that the impugned judgment of the trial Court is based on surmises and conjectures. Learned trial Court, while wrongly and illegally acquitting the respondent-accused failed to appreciate that there was sufficient, cogent and convincing evidence on record against him that he had insulted the applicant in the name of her caste within public view when she had gone to take ration from his shop. The testimony of the applicant as PW1, PW2 Mahinder Kaur, PW4

Roop Ram and PW6 Bhola Ram were consistent qua guilt of the respondent-accused and thus, learned trial Court ought to have convicted the respondent-accused.

I have given anxious consideration to the submissions made by learned counsel for the applicant.

According to the applicant, the incident took place on 02.12.2014, but the complaint Ex.P1 was moved by her on 23.12.2014 i.e. after 21 days. There is no explanation regarding the aforesaid inordinate delay of 21 days in filing the complaint Ex.P1. Therefore, the same is fatal to the prosecution case, inasmuch as possibility of introduction of colourful version cannot be ruled out.

There is no evidence on the record to prove that the respondent-accused knew that the applicant was a member of Scheduled Castes and Scheduled Tribes and with that intention he had insulted, intimidated or humiliated the applicant within public view. There is even no whisper in her complaint Ex.P1 to the above stated effect nor she ever deposed in the Court that the respondent-accused earlier to the incident was aware that the applicant belongs to Scheduled Caste community. Therefore, the prosecution has miserably failed to satisfy the ingredients of Section 3 of the Act.

In the complaint Ex.P1, the applicant has shown herself to be resident of Krishna Colony, Naya Gaon, Ambala City. However, in her cross-examination as PW1, she deposed that she had vacated the house situated in Krishna Colony, Naya Gaon, Ambala City around three years back and there is a separate depot for distribution of ration in the area i.e.

Ravidas Majri Colony, where at present she was living. Even PW4 Ram

Roop, an independent witness, belied the deposition of PW2 Mahinder Kaur, regarding receipt of ration by her on 02.12.2014 i.e. the date of incident.

PW3 Subhash Chand, DSP, has testified that during investigation, he has inspected the ration distribution register of the respondent-accused, duly certified by Inspector, Food and Supply, Ambala, which had started from 03.12.2014 and there was no entry therein regarding distribution of any ration on 02.12.2014 i.e. the date of incident. During his cross-examination, this witness has admitted that during investigation he had found that the allegations levelled by the applicant against respondent-accused were false inasmuch as Charno Devi, Babli, Mala Devi, Ashwani Kumar, Amar Singh, Sukhwinder Singh and Swaran Kumar, public persons, in their statements Ex.D1 to D8 had submitted before him that no such incident, as alleged by the applicant, had taken place on 02.12.2014.

Moreso, the trial Court has observed that photocopy of the ration card of the applicant Ex.P3, pertains to village Panjail and thus, when she had already left Krishna Colony, Naya Gaon, Ambala City, around three years back, where the depot of the respondent-accused is situated, the question of visiting the depot of the respondent-accused for taking ration, does not arise.

All these contradictions in the prosecution case which go to the root of the matter, have been considered by the trial Court while acquitting the respondent-accused. No fruitful argument has been raised before this Court to allow the application of the applicant under Section 378(4) Cr.P.C.

I have gone through the impugned judgment and find no illegality or perversity therein.

In view the discussion made above, the application is dismissed.

09.08.2017
jitender sharma

(RAMENDRA JAIN)
JUDGE

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No