

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.11308 of 2016
and
Criminal Misc. No.A-689-MA of 2016

.....

Date of decision:13.1.2017

Simran Kaur

...Applicant

v.

Hoshiar Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rajesh Gupta, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.11308 of 2016:

For the reasons mentioned in the criminal miscellaneous application, the delay of 60 days in filing this application and the accompanying appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-689-MA of 2016:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Hoshiar Singh and others-respondents/accused for grant of leave to appeal against the judgment dated 19.10.2015 passed by learned Judge, Special Court, Ludhiana, vide which the accused have been acquitted of the charges framed under Section 3 of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC & ST Act') and Sections 323, 342

read with Section 34 IPC.

It is mainly stated in the application that the learned Judge, Special Court, Ludhiana, vide judgment dated 19.10.2015 has acquitted the respondents/accused of charges framed under Section 3 of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC & ST Act') and Sections 323, 342 read with Section 34 IPC by wrongly presuming that there is general tendency to involve the members of non-Scheduled Castes in such type of cases. This reasoning shows that the learned Court has decided the matter with a biased mind and has failed to impart substantial justice to a woman belonging to down trodden section of society which is being oppressed by affluent section of society for centuries and the finding arrived at by the learned Court below needs to be reversed. It has been prayed that leave to file appeal may be granted.

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

From the record, I find that Simran Kaur-complainant filed complaint under Section 3 of the SC & ST Act and Sections 323, 342 read with Section 34 IPC against Hoshiar Singh, Shamsheer Singh, Nachhattar Singh, Harbans Singh, Hamir Singh and Dalbara Singh. The brief facts of the case as noted by the learned Judge, Special Court, Ludhiana in the judgment dated 19.10.2015 are as under:-

“Record reveals that complainant Simran Kaur had filed this complaint against the above named accused with allegations

that she herself belongs to Majbi Sikh caste which is a scheduled caste. Accused persons know very well that the complainant belongs to Scheduled Caste. On 16.7.2008, the complainant went to the village main Gurudwara (Wadda Gurudwara) mostly owned by Jat Community, on the occasion of Sangrand. There was huge gathering in the Gurudwara and at that time, the daughter of the complainant, namely, Harleen Kaur, who was aged about two years, urinated in the hall. The complainant cleaned the floor/carpet etc. then and there. But, at that time all the accused persons were present in the Gurudwara as all of them are committee members. They got infuriated and at that time, Shamsheer Singh, Nachhattar Singh and Harbans Singh manhandled the complainant. The complainant further alleged that accused persons called the complainant KUTIYE CHUHARIYE TENU PINDO KADD DIANGE TE TUHANU CHHOTI DE BACHIAN NU SADDE GURUDWARE WICH DAKHAL NAHIN HON DEWANGE. Other accused also abused the complainant and she was thrown out of the Gurudwara in full public view. At that occasion, Amritpal Singh, Balraj Singh, Ashok Singh, Ex-Sarpanch of village were also present. It was further averred that on 24.7.2008, husband of the complainant was called by the above said accused in the Gurudwara. Her husband was beaten up with the sticks by the accused persons. Accused Hoshiar Singh addressed the

husband of the complainant, KUTEYA CHUHAREYA TERIAN LAKEERAN KADWA KE CHHADANGE. All the accused illegally confined her husband in the village Gurudwara for more than two hours. The complainant had filed applications two times to Deputy Superintendent of Police, but no action was taken by the Police. Hence the complaint.”

The learned Judge, Special Court, Ludhiana after appreciating the evidence produced before it acquitted the accused. Aggrieved from this judgment dated 19.10.2015, present application seeking leave to file appeal has been filed.

I have gone through the judgment passed by the learned Judge, Special Court, Ludhiana. The findings given by the Court below have been given after appreciating the evidence in right perspective. Nothing has been pointed out as to which material evidence has been misread by the Court below and as to which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings given by the Court below are perverse or against the evidence or illegal that is against the law. A perusal of the complaint shows that there is no averment in the complaint that the accused belong to superior caste and do not belong to Scheduled Castes or Scheduled Tribes. It is a necessary ingredient but this necessary ingredient is missing.

The learned trial Court has appreciated the evidence especially the statement of the complainant with the complaint Mark-A and further with the statement got recorded by complainant on 27.2.2009 in the Court of

Executive Magistrate i.e. Ex.R.1. The Court below held that in this statement firstly the complainant nowhere used this wording but only stated that abusive language was used. The proceedings under Sections 107 and 151 Cr.P.C. were initiated in which Shamsher Singh, Harbans Singh, Hamir Singh and Dalbara Singh were also acquitted. The Court below also observed regarding the material discrepancies in the statements and also the improvements and contradictions. The learned Judge, Special Court has appreciated the evidence correctly as per law. A reasonable doubt exists in the prosecution version and the accused have rightly been acquitted by the Court below. The impugned judgment passed by the learned Judge, Special Court, Ludhiana, is correct as per evidence and law and no illegality has been committed.

In view of the above discussion, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to appeal, the same is dismissed.

January 13, 2017.

(Inderjit Singh)
Judge

hsp

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