

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

**CRM-A-1963-MA-2015 (O&M)
Date of decision :02.11.2017**

Boota Singh

..... Petitioner

Versus

Balwant Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Ms. Jigyasa Tanwar, Advocate
for the applicant.

H.S. MADAAN, J.

Complainant – Boota Singh had filed a complaint under Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 read with Sections 323, 342, 504, 506/34 IPC against accused Satinder Singh, Balwant Singh and Surjit Singh.

The accused had been summoned and they put in appearance, formal charge for offences under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Section 323 read with Section 34 IPC was framed against the accused, to which they pleaded not guilty and claimed trial.

Briefly stated facts of the case as per version of complainant –

Boota Singh are that he is an Ex-serviceman belonging to Scheduled Caste community; that he had contested elections for Sarpanch of village Gram Panchayat which was held on 29.06.2003, however, he lost that election and other candidate Piara Singh son of Babu Singh emerged victorious; that accused Satinder Singh, Balwant Singh and Surjit Singh were the supporters of Piara Singh in that Panchayat elections, they had pressurized the complainant to withdraw his nomination papers in favour of Piara Singh, but complainant did not agree, as such they nursed a grudge against him and was on a look out to teach a lesson to the complainant; that accused Satinder Singh was involved in FIR No.40 of 2004 for an offence under Section 406 IPC pertaining to impersonation / embezzlement of Panchayat funds; that FIR was registered at the instance of complainant and other persons of the village Bhanour, as such Satinder Singh become inimical towards the complainant; that Balwant Singh and Surjit Singh are the fast friends of Satinder Singh; that land filling job was going on in the Government Senior Secondary School Bhanour undertaken by Satinder Singh, PTA President of the school, the sand lifted from village 'Sham lat' during day time was put to use in the school, however land lifted in the evening and night was sold by Satinder Singh; that on 20.08.2005 at about 9:00 p.m. when Satinder Singh and his accomplice namely Balwant Singh and Surjit Singh were taking away the sand in three trollies then they were stopped from doing so by one Jagdev Singh son of Mohinder Singh, heated exchange of words took place, in the meanwhile complainant reached at the spot and after listening to both the parties, he tried to persuade Satinder Singh and others not to indulge in such illegal activities but they started abusing him by calling him '*Chura Chamar Kutta*' etc. when the complainant objected to that, then such

persons started beating him severely; that Surjit Singh gave *Lathi* blows to the complainant whereas remaining accused namely Balwant Singh and Satinder Singh gave kick blows and pushed away the complainant, thereafter Janak Singh, Harminder Singh and Gurdeep Singh Lalli came to the spot and they took the complainant to Police Station Dakha where the complainant had reported the matter to the police, thereafter he was taken to Civil Hospital, Ludhiana, where he was medically examined, however, police of Police Station Dakha did not take any action against the accused person, then the complainant moved a complaint before DSP Dakha on 10.09.2005 who called both the parties to his office but the accused did not put in appearance. Then on 13.09.2005 the complainant lodged complaint with S.S.P. Jagraon, which was forwarded to DSP Dakha, such DSP called both the parties. The accused accepted the fact of the complainant being beaten up and abused and contemporaneously called '*Chura Chamar Kutta*' etc. DSP Mullanpur Dakha recorded statement of both the parties, but no action was taken.

After framing of formal charge the case was fixed for evidence of complainant / prosecution, during the course of which complainant - Boota Singh appeared as PW-1, besides, examined Jadgev Singh as PW-2.

With that the evidence of prosecution / complainant was closed.

Statements of accused under Section 313 Cr.P.C. were recorded, in which all the incriminating circumstances appearing against them were put to them but they denied the same and pleaded their innocence and false involvement in this case. They further pleaded that there was committee in their village for the welfare and development of the village; that all the committee members wanted to start sand filling work in the Sr.

Secondary school of their village; that then P.T.A. Committee in consultation with other committee members gave this work of sand filling to Sidhu Transport Co. and Sidhu Transport Co. provided three tractor trollies for sand filling on 18/19/ 20.8.2005 at the rate of ₹110/- per trolley and it was also finalized in the contract with Sidhu Transport Co. that after the work on every day these tractor trollies will take one trolley sand each in return of the work. So on 18/19.8.2005 they had taken the sand as per the commitment. But on 20.8.2005 after completion of work when these tractor trolley were taking sand in the trolley then Boota Singh (complainant) stopped them at 9 PM, then the people of tractor trolley called the members of the committee. They all reached at the spot along with member Panchyat and other respectable. Then they asked Boota Singh not to stop the trolley but when he refused then Panchayat member called SHO Prem Singh, at the spot. SHO Prem Singh, after verifying the facts from all the members, directed Boota Singh to get away from Tractor trolley and allowed the tractor trolley to move on. Thereafter all the members along with SHO left the spot. No body spoke any defamatory word to Boota Singh and nobody gave beating to him. Boota Singh always create hindrance in the development of the village. Thereafter this false case was planted upon them.

During their defence evidence accused examined Amritpal Singh as DW-1 and Dalbara Singh as DW-2, who supported the defence version.

Trial Court had formulated following points for determination:-

i. *Whether the on 20.08.2005 in the area of village*

Bhanohar accused Satinder Singh (since deceased) along with Balwant Singh and Surjit Singh intentionally insulted and intimidated Boota Singh – complainant with an intent to humiliate him being a member of Scheduled Caste, in a place within public view and thereby committed an offence punishable under Section 3(1) (x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989?

ii. *Secondly on the said date, time and place accused Satinder Singh (since deceased) along with Balwant Singh and Surjit Singh caused simple injuries to said Boota Singh in furtherance of their common intention?*

After hearing the arguments, the trial Court acquitted the accused of the charge framed against them, the reasons given in the judgment are as follows:-

“Though complainant - Boota Singh while appearing in the witness box as PW-1 has reiterated the version given in the complaint. But he has concealed the most material facts with regard to presence of police officials as well as SHO Prem Singh at the spot. However during cross-examination the complainant Boota Singh has admitted that earlier Police had come at the spot. He further admitted that SHO Prem Singh was also called at the spot. Thus from the earlier statement of complainant recorded before the Police Police Ex.D1 as well as during the cross-examination of the complainant this fact has become crystal clear that matter was resolved at the spot

with the intervention of the SHO Prem Singh and he disbursed all the parties from there. But while filing this complaint the complainant did not make any reference with regard to reaching of Police at the spot. Thus non-mentioning of this material fact regarding releasing of tractor-trolley from the spot with the intervention of SHO Prem Singh creates doubt regarding genuineness of version of the complainant. Since the complainant Boota Singh has admitted presence of Police officials as well as SHO Prem Singh at the spot, therefore, it is not believable that accused would have dared to utter any defamatory or derogatory words against the complainant or would have caused any injury to the complainant in the presence of Police officials. Even if it is assumed for the sake of arguments that beatings were given to the complainant and defamatory or derogatory words were also uttered to the complainant before arrival of Police, then the complainant would have definitely reported the matter to the Police. But record is quite barren in this regard. Therefore, testimony of PW-1 Boota Singh does not inspire any confidence.

Though PW-2 Jagdev Singh has tried to support the version of the complainant but even this witness appears to be interested witness as he has admitted during his cross-examination that FIR has been registered against his real brother Kulwant Singh at the instance of one of the accused namely Satwinder Singh. Under these circumstances

possibility of false deposition of this witness on account of grudge against the accused cannot be ruled out. Moreover as per the complainant Boota Singh himself it was Jagdev Singh who actually stopped the accused party from taking sand in the trolley. Thus it does not appeal to reason that accused party did not cause any harm to Jagdev Singh rather cause injuries as well as used derogatory language against the complainant Boota Singh who came afterward. Still the complainant has mentioned the names of so many persons who gathered but none of the independent witness has been examined by the complainant to lend corroboration.”

The other reasons given by the trial Court are as follows:-

- i. Joint statement of members of committee of village Bhanaur before police Ex.DAA corroborating stand of the accused.*
- ii. Report of DSP Ex.D2 coming to the conclusion that there is no truth in the complaint filed by the complainant and complaint be filed.*
- iii. It being not proved that accused had knowledge that complainant is member of Scheduled castes accordingly question of intention to insult or intimidate the victim as member of Scheduled Caste not arising.*
- iv. There being nothing on record to show that complainant had suffered any injury and no doctor had come forward to prove that injuries had in fact been detected on person of*

complainant.

v. *Gross delay in filing of the complaint inasmuch as the incident is said to have been taken place on 20.08.2005 whereas complaint was filed in the Court on 26.11.2005 that after expiry of more than three months without there being any cogent or convincing explanation for the same.*

Feeling aggrieved the complainant has approached this Court seeking special leave to appeal.

I have heard learned counsel for the complainant and I find that no ground is made out to grant the relief prayed for. The judgment passed by the trial Court is well reasoned one based upon proper appraisal and proper appreciation of the evidence and correct interpretation of law. There is no illegality or infirmity which might have called for interference by this Court by granting leave to appeal and exercising appellate jurisdiction. Furthermore the application has been filed belatedly by 15 days and no justifiable reason for the delay could be explained in the application under Section 5 of the Limitation Act moved by the complainant for condonation of delay, therefore, the application under reference stands dismissed.

02.11.2017

Gaurav Sorot

**(H.S. MADAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**