

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

CRM No.A-339-MA of 2017 (O&M)

Date of decision: November 09, 2017

Ramesh Chand

...Applicant

Versus

Pawan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jai Singh Yadav, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Ramesh Chand has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State Pawan and other respondents, challenging the judgment dated 15.11.2016 passed by learned Addl. Sessions Judge, Rewari, whereby accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that if the impugned judgment is not set aside, the applicant would suffer immensely and the same would tantamount to an extreme physical mental and financial loss to the applicant. It is, therefore, prayed that leave to appeal be granted.

As per the record, challan was presented against Pawan and

149, 323, 325, 506, 427 IPC and Section 3 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The brief facts of the case as noted down in the judgment passed by learned Addl. Sessions Judge, Rewari, are as under:-

“2. Briefly the Prosecution case is that on 14.08.2013, a police party headed by ASI Bijender Kumar was on patrol duty near H-way hospital. An information was received that a quarrel had taken place near Apex hospital, Dharuhera. He went to the spot and recorded the statement of Chotte Lal son of Mehar Chand, resident of Mohalla Hanuman Mandir. It was stated by the complainant that on 14.08.2013 Rocky and Pakari etc gave beatings to Laxman son of Hira Lal and Anup Singh son of Rattan, residents of Ward no.2 Dharuhera near Hanuman Mandir. Laxman and Anup were admitted in Apex Hospital, Dharuhera. He was sitting outside the hospital. At about 11:00 PM, 20/25 boys armed with lathis, dandas, rods came there on two Scorpio vehicles, motorcycles and mini bus and attacked him. The accused persons namely Rocky son of Ghamandi, Pakari son of Ghamandi, Dimpny son of Puran Chand, Vijay son of Mam Chand, brother in law of Ghamandi, Pawan son of Babu Ram, Vikram son of Mam Chand, Ghanshyam son of Babu Ram, Monu son of Bhoop Singh, Bittu son of Rohtash, Tain Singh, Mintesh residents of Lokri, Hari Singh son of Pappu, Arun son of Papu, Ravi residents of Maheswari gave beatings to him with lathi, dandas and rods. They also broke the front glass of the Apex hospital. Thereafter all the accused persons left the spot. While leaving the spot they also threatened to kill him. He further stated that the occurrence was witnessed by Sunil son of Hira Lal and Ravinder @ Kale son of Ram Kishan residents of Dharuhera. He was admitted in Apex Hospital, Dharuhera. Earlier in the evening, a quarrel had also taken place wherein the members of the other party namely Ajit and Shamsher had received injuries. He further stated that the accused gave him beatings due to personal enmity with an intention to take revenge.

3. On the aforesaid statement, FIR under sections 148, 149, 323, 325, 506, 427 of Indian Penal Code was registered. During the course of investigation the supplementary statement of complainant Chotte Lal and the statement of eye witnesses of the occurrence namely Sunil son of Hira Lal and Ravinder @ Kale son of Ram Kishan were recorded. They stated that the accused abused them in the name of their caste by calling them “dedh” and “Khatik”. The statement of Ramesh Chand was also recorded who stated that when he is going to Apex Hospital to inquire about the health of the injured and reached near Santosh Dharamshala, a vehicle

make Scorpio came from behind and stopped there. Accused Rocky, Pakari and Bitu came out of the Scorpio. They were armed with dandas. They abused him in the name of his caste and called him “dedh”. Accused Rocky gave a blow of danda on his neck and accused Pakari gave another blow of danda on his neck. On the basis of the supplementary statement made by complainant Chotte Lal and the eye witnesses of the alleged occurrence namely Ramesh, Sunil and Ravinder, offence under section 3(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added to the case. Further investigation was conducted by the then Inspector/SHO. The accused persons namely Pawan, Vikram, Kanwar Singh, Arun, Vijay, Mony @ Vivek, Rocky, Ravinder and Tain Singh were arrested and joined to the investigation in this case. They were subsequently released on bail. The medico-legal reports of injured were also obtained and taken into possession by the investigating officer. The other persons named as accused in the FIR were found to be innocent. On completion of investigation, challan was filed in the court of learned Area Magistrate against accused namely Pawan, Vikram, Kanwar Singh, Arun, Vijay, Monu @ Vivek, Rocky, Ravinder on 16.01.2014 and against accused Tan Singh on 10.03.2014.”

In support of its case, prosecution examined 15 witnesses.

Learned Addl. Sessions Judge, Rewari, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 15.11.2016.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

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

The perusal of the findings given by learned trial Court shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has

been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Addl. Sessions Judge, Rewari.

From the perusal of the record, I find that only Chote Lal is stated to have been injured in the present occurrence but he could not be examined due to his death. PW-2 Ramesh Chand, injured was not present at the time of occurrence of this case. He received injuries in other incident. As per case of the prosecution, about 20-25 persons armed with lathis, dandas, iron rods came in two Scorpio, motorcycles and mini bus and attacked Chote Lal but the perusal of the record shows that he received only three injuries on his person, which created doubt in the prosecution version. If 20-25 boys would come armed with lathis, iron rods etc., then they would not have caused these simple injuries.

Furthermore, Dr.R.K.Singh deposed that he declared injury No.2 to be grievous on the basis of clinical examination. The injury was not got x-rayed and injured Chote Lal was not radiologically examined. Without X-ray films and X-ray reports, injuries cannot be declared as grievous. The offence under Section 325 IPC is also not made out. It means that three simple injuries with blunt weapon have been received by Chote Lal. Further, both the doctors PWs stated in cross-examination that names of assailants were not disclosed to them by the patient.

Learned trial Court also discussed the evidence of PW-2 Ramesh Chand in detail. It is stated in his evidence that no person had seen the accused inflicting injuries to him or uttering caste related words. He did not get himself medically examined on 13.08.2013. He did not disclose the name of the assailants to the doctor. He further stated that no other person

suffered any injury in the quarrel in his presence. It was pitch dark at the spot of occurrence. He could not tell the registration numbers and particulars of the vehicles on which the assailants had come at the spot. He also stated that he could not tell the name of the person who brought him to his house and no member of his family saw that unknown person.

The Court also held that PW-2 Ramesh Chand was not present at the spot at the time of alleged occurrence wherein Chotte Lal received injuries as admitted by him. He stated that no other person suffered injury at the hands of the accused persons in his presence. He was also not present at the spot at the time of alleged occurrence that took place in front of Apex Hospital. Rather he had made allegations with regard to another occurrence that allegedly took place near Santosh Dharamshala while he was going to Apex Hospital to inquire about the health of Anup and Laxman who were admitted in Apex Hospital. PW-2 Ramesh Chand nowhere stated that any beatings were given to Chotte Lal by any of the accused persons facing trial in his presence.

Learned trial Court also held that it is nowhere mentioned by the complainant in the written complaint that the accused were not the members of the Scheduled Caste or Scheduled Tribe and that they knew that the complainant was a member of the Scheduled Caste or Scheduled Tribe. It was also nowhere stated by the complainant that accused intentionally insulted or intimidated him with an intention to humiliate him. It is further held that PW-1 Sunil Kumar is the only material witness examined by the prosecution who allegedly witnessed the occurrence wherein Chotte Lal received injuries but while appearing in the witness box as PW-1 he has

of the alleged occurrence as narrated by complainant Chotte Lal in the statement Ex.PB. Chote Lal is stated to be aged about 70 years. If 20-25 boys would have attacked him with lathi, danda and iron rod, he might have received more serious and grievous injuries than the injuries alleged to have been suffered by him.

The perusal of the judgment passed by the Court below shows that the findings have been given by correctly appreciating the evidence in right perspective. In no way, the judgment can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned judgment dated 15.11.2016 passed by learned Addl. Sessions Judge, Rewari, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

November 09, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No