

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

CRM-A-No.461-MA OF 2017
DATE OF DECISION : 16th MAY, 2017

Manoj Kumar

.... Appellant

Versus

State of Haryana & others

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Deepak Aggarwal, Advocate for the applicant-appellant.

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A. B. CHAUDHARI, J. (ORAL)

Heard learned counsel for the appellant/complainant, who has applied for leave to appeal. He has invited my attention to para 10 of the judgment which reads thus:

“10. The main case of the prosecution rests on the testimonies of PW2 Manoj Kumar, the complainant and his wife, Angrejo PW3. They both have deposed that the accused came to their house at about 12'Oclock in the night intervening 21/22.01.2016 and while pelting brickbats, they had hurled abuses calling them as “Dedh, Chamaron, Kamino”. They have also testified that the accused had given out a threat to shoot the complainant.”

The learned counsel for the appellant was asked specific question whether the witnesses has deposed about hurling of abuses in public view, which is the *sine qua non* for offence under Section 3(1)(x) of the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter called the "Act").

Having gone through the deposition of Manoj Kumar PW-2, it is seen that it is not even remotely suggested that the place at which or from which the abuses were hurled, was within the public view.

Learned counsel for the appellant submits that the abuses were hurled from the street. That cannot be the matter of imagination. The witnesses have to depose about it. However that is not so in the evidence, nor the trial Court has recorded any finding that the offence took place within the public view.

In view of the above, the appeal is summarily dismissed.

16th MAY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No.</i>