

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

**CRM-A-514-MA-2014
Date of decision :23.10.2017**

Jaswinder Kaur

..... Petitioner

Versus

The State of Punjab and others

..... Respondent

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

Present : Mr. A.K. Khunger, Advocate
for the applicant.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. P.K.S. Phoolka, Advocate
for respondents No.2 and 3.

H.S. MADAAN, J.

Jaswinder Kaur had filed a complaint against accused Parampal Singh, Manjit Kaur, Balam Singh, Vicky, Sant Lal, Chhote Lal and Ajay for offences under Sections 3 / 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 120-B, 468, 471, 452, 323 IPC. After recording preliminary evidence the accused were summoned, they put in appearance and case was committed to the

Court of Sessions from where it was assigned to Additional Sessions Judge, Bathinda.

Briefly stated the facts of the case as per version of the complainant are that she belongs to Mazbi Sikh community, which is a Scheduled Caste declared by Punjab Government; that she is married with Sukhmander Singh, who also belongs to Mazbi Sikh community; that complainant along with her husband are residing at House No.15014 Kothe Sucha Singh, Gali No.8, Bathinda; that she had raised a loan of ₹5,000/- from Manjit Kaur wife of Balam Singh and at that time accused Manjit Kaur and Balam Singh took her thumb impressions and that of her husband Sukhmander Singh on separate blank papers, printed forms and blank petition papers in the year 1998; that loan was repaid with interest in the month of May, 1999, however, accused did not return blank stamp papers, stamp papers, petition papers and printed forms bearing thumb impression of complainant and her husband Sukhmander Singh, rather they entered into conspiracy to take benefit of such papers and prepared false document of mortgage in favour of accused No.1 for ₹60,000/- which was contrary to the factual position; that this was so done by the accused to grab valuable property of husband of complainant situated at Patti Jhutti measuring 200 square yards; that accused Parampal Singh in conspiracy with Manjit Kaur, Balam Singh and Vicky filed a false application before the Lok Adalat of Sh. A.P. Batra bearing application No.357 dated 17.11.2000 so as to pressurize the complainant and her husband to pay amount of ₹60,000/- with interest, the said application was dismissed on 03.03.2001; that on

11.07.2002 at about 7:45 p.m. accused Manjit Kaur, Parampal Singh conspired with other accused and trespassed in the house of complainant, while the complainant was serving her husband and children with meals; that the accused abused the complainant and her husband by saying that *“Salay Kuttai Chuddai Mazbi Sikh Jaat De Neach Log Aib Sallay Sadde Ditai Paisa Te Cooler Thallay Bathe Aish Marde Hun Ehna Noo Ta Sannoo Apni Jutti Di Noke Ta Rakhna Aanda Hai Atae Ehna Neach Jat De Loga Noo Sarkar Ne Apne Sir Te Batha Rakhia Hai Aeh Ta Sanoo Pata Hai Sallay Kinz Lot Karide Hai”*. At that time accused Parampal Singh was having a hockey stick in his hand, accused Manjit Kaur was also carrying a hockey stick, whereas accused Sant Lal was armed with an iron rod and accused Vicky with a *Sotti* (stick) and other accused bolted the door from inside and stood near the gate and then accused Parampal Singh gave a hockey blow by hitting the hand of complainant; that accused Manjit Kaur also gave hockey blow by hitting on the hip of complainant and accused Balam Singh caught the complainant from hair; that accused Vicky gave blow of stick on the back of husband of complainant, accused Sant Lal gave blow of iron rod on the right arm of complainant; that neighbourer Smt. Gurdeep Kaur, Baljit Kaur wife of Gurcharan Singh and Amarjit Kaur wife of Naib Singh and one Sajjan Singh son of Chattru Singh and Kamlesh Kaur wife of Ram Chand resident of Bathinda came there, but the door was bolted from inside by the accused; that accused observing the neighbourers immediately opened door and run away from the scene on their motorcycles with their respective weapons; that the complainant reported the matter at

Police Station, Thermal Plant, Bathinda, but the police had not taken any action. Even they failed to get the medical examination of the complainant and her husband conducted as such the complainant filed a complaint in the Court of Judicial Magistrate Ist Class, Bathinda.

Judicial Magistrate Ist Class, Bathinda committed the case to Special Judge, Bathinda vide order dated 15.07.2013, which was assigned to Additional Sessions Judge, Bathinda.

Learned Additional Sessions Judge, Bathinda charge-sheeted the accused for offences under Sections 3 & 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 120-B, 468, 471, 452, 323 IPC, to which accused pleaded not guilty and claimed trial.

In order to prove the charge, the complainant herself stepped into the witness box as PW-1 and examined PW-2 Sukhmander Singh, PW-3 Kamlesh Rani, PW-4 Gurcharan Singh, PW-5 Gurdeep Kaur, thereafter learned Addl. P.P. for the State and counsel for the complainant closed the evidence.

The accused were examined under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused was put to them, but they denied the same and claimed false implication and innocence. In addition to that accused Balram Singh further pleaded that on 17.08.1999 husband of complainant Sukhmander Singh had taken loan of ₹28,600/- from Manjit Kaur; that writing was executed to this effect or that husband of Jaswinder Kaur had thumb marked the said writing; that on

16.09.1999 Sukhmander Singh had mortgaged his 200 square yards of land for a sum of ₹60,000/-. Similar defence plea was adopted by other accused.

In defence, accused examined DW-1 Parampal Singh and closed their defence evidence.

The trial Court formulated following points for determination:-

- i. Whether on 11.07.2012 at about 4.45 p.m. accused Manjit Kaur and Parampal Singh insulted the complainant by using derogatory words towards her caste in the public view and thereby committed the offence under Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989?
- ii. Whether on 11.07.2012 accused Manjit Kaur and Parampal Singh entered into the house of complainant with intent to commit offence and voluntarily caused simple hurts on the person of Jaswinder Kaur and her husband and thereby committed the offence under Section 452 and 323 of IPC?
- iii. Whether in the month of November 1998 Parampal Singh, Manjit Kaur and Balram Singh conspired with other co-accused and prepared false and forged mortgage deed regarding 200 square yards of land of Jaswinder Kaur and thereby committed the offence under Section 468 read with Section 120-B of IPC?
- iv. Whether on the same time and place accused Parampal Singh by using the said forged document bearing

signature of Jaswinder Kaur filed complaint against Jaswinder Kaur in the Lok Adalat and thereby committed offence under Section 471 of IPC?

After hearing arguments trial Court acquitted the accused of the charge framed against them.

In para No.14 of the judgment the trial Court has given detailed reasons in coming to the conclusion that no offence under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, for ready reference, para No.14 is reproduced as under:-

“From the perusal of the judicial file and submission of the learned Addl. P.P. For the State and learned counsel for the accused, it came to my notice that complainant filed complaint under Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Sections 120-B, 468, 471, 452, 323 of Indian Penal Code. The caste certificate of Sukhmander Singh is Ex.C2 and caste certificate of Jaswinder Kaur is Ex.C3 which is brought on the file in preliminary evidence, but in the after charge evidence, the complainant and her husband has not uttered a single word that they belong to Scheduled Castes or Scheduled Tribes. For the sake of arguments if we consider that the uttering of single word is not must but for proving the offence 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of

*Atrocities) Act, 1989 the accused must utter derogatory words relating to the caste in the public view but PW1 Jaswinder Kaur stated that in the month of Hari about 6/7 years ago, accused Manjit Kaur along with Vicky, Parampal Singh and 7/8 other persons came to their house. They uttered derogatory words relating to their caste but they bolted the door. PW2 Jaswinder Singh is also witness of the occurrence. He also stated that all the accused bolted the door, so those words uttered by the accused were not heard by any person. Then door was bolted, so words could not be heard by any person from the public. Hon'ble High Court of Delhi in case **Ram Nath Sachdeva Vs Govt. of NCT of Delhi 2001(4) RCR 774** hold inserting remarks passed by accused against complainant inside the house and not within public view. No offence under Sections 3(1)(x) made out. Hon'ble Punjab and Haryana High Court in case **Suresh Vs State of Haryana and others 2011(4) RCR (Criminal) page 618** hold that complaint against the accused on the ground that they belonged to Jat Caste. They insulted the complainant in the name of her caste and called 'Dhedni Kamini Chamari' – Complainant failed to show that accused have uttered any insulting words against the caste of the complainant in the public view. Hon'ble High Court of Punjab and Haryana in case **Gorkhi Ram and others vs. State of Haryana and other 2006(4) RCR (Criminal) page***

356 hold that 'Accused went to the house of complainant who was Scheduled Caste and abused the complainant and his family used derogatory remarks against him by calling him by his caste name. Entire occurrence had taken place within the bounded area of the house of the complainant and not in any place within public view. No offence under Section 3, 4 and 5 of the Act, is made out.'"

In para No.15 of the judgment the trial Court has observed that with so many assault attacks on the complainant and her husband, they would have suffered extensive injuries, but it was not so. Further they were not admitted in any hospital which cause a doubt over the case of complainant.

PW-3 Kamlesh Rani in her examination-in-chief stated that she went to the house of Jawinder Kaur on hearing hue and cry. She further stated that she did not know the persons who was fighting with Jaswinder Kaur and who were abusing the complainant and further complainant was also abusing them but she also stated that she did not remember the words uttered by the accused to the complainant.

The trial Court has dealt with the statement of other witnesses examined by the complainant in detail while coming to the conclusion that their depositions were not worthy of reliance. As regards the allegations of forgery of documents it has been concluded that no evidence was there to show that accused had forged any document using the same as genuine. The version of the complainant as regards the causing of injury to accused

and her husband was also found doubtful. One of the reason being that medical evidence to support such contention was not there.

The judgment passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. It does not suffer from any illegality or infirmity. I do not see any reason to interfere with such judgment passed by the trial Court or to grant special leave to appeal. Even otherwise on merits also the applicant has no case. Therefore, the application for leave to appeal is dismissed.

23.10.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

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