

237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A No.921-MA of 2017

Date of decision: November 06, 2017

Roop Singh

....Applicant

Versus

Jagtar Singh @ Tara and another

....Respondents

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

Present: Mr. Kulwant Singh, Advocate
for the applicant.

A. B. CHAUDHARI, J. (ORAL)

Heard learned counsel for the applicant.

It is contended that there are two incidents in respect of the offences in question. In the first incident, the accused persons entered into the house of the complainant and hurled abuses in the name of castes in the presence of the family members. The trial Court has rightly taken a view that requirement of the place in public view is a *sine qua non* for the offence under Section 3(x) of the Act in Para 16 which reads as under:-

“In the present case, the first part of the occurrence allegedly took place on 24.06.2008 at the house of complainant in the presence of Lachman Singh Panch and his family members at 8:45 A.M. The first part of the occurrence was never committed within the public view so as to attract commission of offence under Section 3(x) of the Act. Lachman Singh Panch reportedly had expired and complainant had failed to examine his family members to prove that accused Jagtar Singh had on 24.06.2008 visited his house at 8:45 A.M. and uttered words against his caste. Complainant had in his examination in chief stated that in the presence of women of their house, Jagtar Singh deposed against the caste by saying that “Kute, Chuhre jede kal tak sade ghare bich kam karde han, kurlian wich hath marde san aj mure bolde han”. However, when confronted with the

complaint, he has admitted that he did not mention these facts in his complaint, thus proving that this version of the complainant was improved version. Further he had in his examination in chief stated that when accused Jagtar Singh entered into his house and threatened by using abusive language regarding his caste and told that he was interfering in the party matter and was disturbing their votes. In the cross-examination he has conceded this fact does not find mentioned in his complaint.”

I agree with the above findings recorded by the trial Court.

Learned counsel for the applicant has drawn my attention to

Para 17 of the trial Court judgment which reads as under:-

“Complainant had attributed the second occurrence taken place on 24.06.2008 at 7:30 P.M. to the present accused and 5-6 unidentified persons. This occurrence as per the version of complainant took place when complainant alongwith Karamjit Singh member of Panchayat were coming to Village Mallha from Rasulpur and were near Hadda Rauri when accused Jagtar Singh along with co-accused Darshan Singh and six unknown persons came. Jagtar Singh raised lalkara by saying that “agaya kuta, chuhra aj bachke na jave”. Jagtar Singh alongwith Darshan Singh used abusive language against the caste of the complainant by saying that “kuta chuhra asin tenu votan bich dakhar andazi karan da sabak sikha rahen han”.

About the assault and the abuses in the name of the caste, relevant is from Para 17 in the cross-examination which reads as under:-

“In the cross examination complainant has stated that at the time of occurrence he and Karamjit Singh Panch alone were present. Meaning thereby, that occurrence did not take place within the public view. Complainant had failed to prove the identity of the 5-6 unidentified persons who were accompanying the accused. Complainant had in his examination in chief stated that on the alarm raised by him

after the injuries, Jagtar Singh alongwith Darshan Singh fled from the spot. He has nowhere stated that the 5-6 unidentified persons accompanying also fled from the spot”.

I think no second view can be taken particularly in appeal against acquittal.

The reasons given at in Para 17 cannot be said to be perverse.

In view of the matter, the application for leave to appeal is refused and the appeal is dismissed.

(A. B. CHAUDHARI)
JUDGE

06.11.2017
m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No