

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

CRM No.A-926-MA of 2014 (O&M)

Date of decision: October 26, 2017

Sukhdev Kaur

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.V.S.Chugh, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Sukhdev Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents State of Punjab and Harbans Kaur, challenging the judgment dated 02.04.2014 passed by learned Special Judge, Mansa, whereby the complaint filed by the applicant-complainant was dismissed and accused-respondent was 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, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Sukhdev Kaur filed a complaint against accused Harbans Kaur under Section 3(1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

brief averments of the complaint as noted down in the judgment passed by learned Special Judge, Mansa, are as under:-

“2. Briefly stated facts of the complaint are that complainant belongs to Ramdasia Sikh caste which has been declared as scheduled caste by the Govt. Accused Harbans Kaur belongs to Jat Sikh caste which falls in general category. Complainant has been employed as Anganwari Worker at village Moffar and accused Harbans Kaur has been employed as supervisor of Jhunir circle. The post of Helper in village Moffar was lying vacant and Veerepal Kaur wife of Balkar Singh resident of Moffar was employed as Helper against the said vacant post. Later on Veerpal Kaur gave it in writing that she has been employed as Helper by giving Rs.5000/- as bribe. Accused Harbans Kaur was nourishing grudge against the complainant on the ground that this fact of taking bribe by accused was known to complainant. On 18.04.2011, a meeting was held at Circle Jhunir, in which, complainant and accused were also present where accused without any reason abused complainant by calling her “Churi, Dhed, Chamari” and also gave threat to complainant that she has taught a lesson to 20 churis like her and that she is nothing before accused. At that time 30/35 Anganwari Workers were present. Accused came out of the meeting by using un-parliamentary language against the complainant where Chakinder Kaur wife of Darshan Singh resident of Danewala, Harnek Singh husband of Mohinder Kaur and Mehar Singh son of Mohinder Singh resident of Moffar were present. Accused called Churi, Chamari, Dhed to complainant in front of them also. Complainant pleaded before accused not to abuse her caste and that all the castes are equal and that accused is higher in position to the complainant and that she should not use un-parliamentary language but accused did not pay any heed to complainant. Jaswant Kaur, President also tried to make the accused understand but accused did not listen to anyone. In this way, by using un-parliamentary language by accused, complainant has been insulted. The motive behind the occurrence was that accused employed Veerpal Kaur wife of Balkar Singh resident of Moffar, at Centre No.12 after taking bribe of Rs.5000/- regarding which complainant knew and Veerpal Kaur gave it in writing regarding this. Accused nourished grudge against the complainant and due to this reason, she used un-parliamentary language and insulted complainant for which she had no right. It is further alleged that immediately thereafter, complainant had moved an application before SHO P.S Jhunir but to no effect. Another application dated 27.04.2011 was moved before DSP Sardulgarh and Deputy Commissioner, Mansa. Applications were also sent through registered post on 13.06.2011 to the office of SSP Mansa,

Progamme Officer, Mansa, Chairman, Punjab State S.C Commission, Chandigarh, Director Women Cell, Punjab, Chandigarh but no action has been taken on those applications. Accused has been requested police many a times but no action has been taken against accused due to her political approach. Yesterday, police of police station Jhunir finally refused to take action which necessitated the complainant to file the present complaint which is within limitation. It is further alleged that complainant also sent a registered notice dated 05.07.2011 to accused through her counsel regarding which no reply has been received. In the end, it is prayed that accused be summoned under section 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and under section 500, 504, 506 IPC.”

The complainant examined herself as PW-1. She also examined other PWs. After the closure of the complainant evidence, accused was examined under Section 313 Cr.P.C. and she denied all the incriminating evidence against her. She took the plea that she has been falsely implicated in this case as she being the supervisor of complainant checked the centre, where she was found absent and the food material also found less in quantity so, she gave notice to Sukhdev Kaur regarding this and one enquiry was conducted by her against complainant in a complaint filed by one Sukhdev Kaur wife of Mehar Singh resident of Moffar. Due to this reason, complainant filed the present complaint as a counter blast against her. In defence, she examined DW-1 Head Constable Swaran Singh, DW-2 Sukhwinder Kaur, DW-3 Veerpal Kaur, DW-4 Kamaljit Kaur, DW-5 Baljit Kaur, DW-6 Labh Singh, DW-7 Nazir Singh, DW-8 Avtar Singh and DW-9 Constable Arvinder Singh.

Learned Special Judge, Mansa, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondents vide impugned judgment dated 02.04.2014.

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 Special Judge, Mansa 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 trial Court.

From the record, firstly, I find that there is nothing in the complaint that accused has said these words with intention to insult the complainant by naming her caste. There is also nothing that accused was knowing the caste of the complainant. Further, learned Special Judge, Mansa, has discussed the evidence in minute details and found so many discrepancies. Admittedly, accused is Supervisor of the complainant and the enquiry has been got conducted by the accused against the complainant, which creates reasonable doubt that this complaint has been filed as a counter blast.

The accused, to substantiate her defence, has proved on record document Ex.DW8/A which shows that District Programme Officer sent a letter to CDPO Budhlada and Jhunir for conducting enquiry against Sukhdev Kaur complainant. The document further reveals that enquiry was marked to accused Harbans Kaur Supervisor. This shows that complainant

was nourishing grudge against the accused and due to this reason, she

falsely implicated accused in this case. Learned trial Court further held that accused has been charged under Section 323 IPC but no evidence has been produced by the complainant to show that any injury has been caused to her.

From the perusal of the judgment passed by the Court below, I find that the findings have been given by 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 02.04.2014 passed by learned Special Judge, Mansa, 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.

October 26, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No