

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

Crl. Appeal No.S-2515-SB of 2013 (O&M)
Date of Decision: October 03, 2018

Jogi Ram

...Appellant

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Trikha Advocate
for the appellant.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant Jogi Ram against State of Punjab and other respondents, challenging the judgment dated 25.04.2013 passed by learned Sessions Judge-cum-Special Judge, Hoshiarpur, whereby the accused-respondents were acquitted of the charges framed against them.

From the record, I find that challan was presented against Avtar Singh and other accused in case FIR No.216 dated 22.11.2008 under Sections 323, 506, 148, 149 IPC and Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Mahilpur, District Hoshiarpur. The brief facts of the prosecution case as noted down in the impugned judgment by learned Sessions Judge-cum-Special Judge, Hoshiarpur are as under:-

20.11.2008 to the effect that Jogi Ram lying in injured condition in Civil hospital and thereafter HC Nirmal Singh along with other police officials visited Civil Hospital, Hoshiarpur for getting copy of the MLR of said Jogi Ram (hereinafter referred as complainant). After getting opinion of the doctor qua fitness of complainant to suffer statement, attempt was made to record statement of Jogi Ram, but Jogi Ram refused to suffer statement on 21.11.2008. However, on 22.11.2008, ASI Dilbagh Singh, Incharge, Police Post, Kot Fatuhi visited Civil Hospital, Hoshiarpur for recording statement of complainant and complainant suffered statement as if he is resident of Binjon and an Ex-Sarpanch. Further, it was reported by complainant that Avtar Singh accused, earlier Sarpanch embezzled amount of ₹14,04,857/-, the amount of received grants. Orders for recovery of this amount were issued after submission of report by the Audit Department. A news item on 19.11.2008 was got published in 'Daily Punjabi Ajit' as well as in 'English Tribune' for claiming as if Avtar Singh contesting election despite the above orders of recovery. A petition with Deputy Commissioner even was filed, which was fixed for 2.12.2008. Complainant claims that he was pursuing the said petition.

2. Complainant further reported that on 19.11.2008, at about 3.00 PM, he was going from his plot with vegetable in hands towards his house, but when he reached near school, then Member Panchayat Gurmet Singh, Ex-Panch Pakhar Singh, Jagar Singh, Prem met him (complainant) on the way. Complainant after meeting these persons started for going to his house, but when he traveled about 4/5 paces only, when Marshal Jeep of black colour driven by Ranbir alias Beeri came there and stopped near complainant. In that Jeep Mohinder Singh, Avtar Singh, Devinder Singh, Harbhajan Singh accused were sitting. Avtar Singh accused raised Lalkara that lesson be taught to 'Kutte Chamar' (dog of Scheduled caste) for getting news items published. Thereafter, Avtar Singh came out of the jeep followed by co-accused Devinder Singh and Mohinder Singh. It is claimed that Avtar Singh gave fist blow with force in head of complainant, due to which he after feeling giddy fell on the ground. While complainant was lying on the ground, then Avtar Singh, Devinder Singh, Mohinder Singh gave kick and fist blows to complainant, due to which he sustained injuries on both legs, back and left eye. Thereafter, Avtar Singh dragged complainant by administering threats of killing him. Even, Avtar Singh proclaimed that whatever he has done to the said 'Kuta Chamar', the same is enough. Complainant claims that his clothes stood torn and even currency notes of worth of ₹11,000/- fell from the pocket of his shirt. Even, the key from pocket of complainant fell on the ground. Currency notes of ₹11,000/- were picked by Devinder Singh for proclaiming that

this amount will be spent on the 'Kutte Chamar' (dog of Scheduled Caste). After hearing noise of complainant, Gurmel Singh, Pakhar Singh, Jagat Singh and Prem Singh were attracted to the spot of occurrence and thereafter, accused fled away in the Jeep. Ranbir alias Beeri during this occurrence kept on keeping the Jeep in starting position. Harbhajan Singh while sitting in the Jeep itself kept on exhorting the co-accused to commit the occurrence in question. It is claimed that complainant after being put in vehicle by Kishan Singh and Swaran Singh, was taken to Civil Hospital. Shankar Dass, the brother of complainant also reached there. Complainant claimed that as he was not feeling well on 20/21.11.2008 and that is why he could not suffer statement on those dates.

3. The doctor found eight injuries on person of complainant, all of which were inflicted with blunt weapon. Most of these injuries were found simple in nature. After recording statement and obtaining copy of the MLR, case qua commission of offence punishable under Sections 323, 379, 506, 148, 149 IPC read with Section 3/4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against accused. Site plan of place of occurrence prepared and statements of witnesses were recorded. Enquiry was got conducted from DSP Rajinder Singh as well as from Sh.Inderjit Singh ASP, Garhshankar. However, case qua commission of offence punishable under Section 379 IPC found to be not made out and as such, deletion of that offence ordered. Anticipatory bails were got by the accused and as such, they were arrested on 16.4.2010, but released on bail as per terms of the orders of anticipatory bail. All the injuries after receipt of X-ray report were found simple in nature. After completion of investigation, challan against accused presented.”

On presentation of challan against accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 323, 506, 148, 149 IPC read with Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Jogi Ram,

PW-4 Prem Dass, eye witness, PW-5 Dr.Jaswinder Singh, PW-6 DSP Harpreet Singh, PW-7 ASI Dilbagh Singh, Investigating Officer, PW-8 Ravinder Lata, PW-9 SSP Inderbir Singh, PW-10 SP(D) Rajinder Singh and PW-11 Jaswinder Kaur, Clerk.

At the close of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. They denied the correctness of the evidence and pleaded their false implication. Accused Avtar Singh further pleaded that he has not uttered any derogatory remarks against caste of complainant and even he has not inflicted any injury on the person of complainant. He also pleaded that this false case got planted due to party faction in the village since long and also on account of bitter enmity and long standing litigation between complainant and accused party for settling the scores. Accused Avtar Singh claimed that complainant does not belong to Scheduled Caste and he obtained false certificate of caste. Other accused also took the same plea.

Learned trial Court, after appreciating the evidence acquitted the accused-respondents vide judgment dated 25.04.2013.

I have learned counsel for the appellant and have gone through the record.

The perusal of the findings given by learned Sessions Judge-cum-Special Judge, Hoshiarpur, 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 learned trial Court. 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. The perusal of the findings shows that learned trial Court has appreciated the evidence in right perspective.

Further, from the record, I find that there is enmity between the parties. There is long pending litigation between the parties and both the complainant and accused party pitted against each other in contesting elections. The witnesses examined by the prosecution had also enmity with the accused being henchmen of complainant. From the perusal of the record, I find that there are material contradictions in the statements of the complainant and eye witnesses. At the time of presentation of challan, offence under Section 379 IPC was not found to be made out, which means that allegations are exaggerated. The complainant did not suffer statement for two days after occurrence despite the fact that he remained conscious for these days and was approached by the police during this period. There is no such explanation regarding the delay in lodging the FIR and for not getting recorded statement before the police, which shows that there was sufficient time for concocting a false version and this fact also creates doubt in the prosecution version.

Learned trial Court scrutinized the statements of the witnesses and held that story of the prosecution case looks unnatural and unbelievable. PW-1 Jogi Ram admitted that in connection with the matrimonial dispute of his daughter-in-law Manjit Kaur, an application with accused Avtar Singh Sarpanch was filed levelling allegations of demand of dowry and said application was forwarded to police by accused Avtar Singh and on the basis of that application, FIR was registered, which was later on cancelled. As per PW-1, Avtar Singh, accused was helping/backing Manjit Kaur but

Section 307 IPC was registered for causing injuries to Harbhajan Singh etc. in which accused Avtar Singh is a witness. Mohinder Singh accused is witness against PW-1 in that case. Even PW-1 Jogi Ram claimed that application filed with Deputy Commissioner for recovery of amount of ₹14 lakhs was dismissed. PW-1 admitted himself to be a witness against accused Avtar Singh in case registered by Vigilance Department. It has also come on the record that Avtar Singh got registered FIR No.109 dated 28.07.2003 under Section 307 IPC against PW-1 as well as Gurmel Singh and Parkhar Singh, witnesses of this case. In that case, Davinder Singh, Harbhajan Singh and Mohinder Singh, are the witnesses, which fact is admitted by PW-1 Jogi Ram in his cross-examination. Accused Ranbir Singh is son of accused Mohinder Singh. The Court below discussed various litigations in the present case, which were put to the complainant also. PW-2 admitted that Simarjit Kaur was their candidate for Sarpanch, pitted against accused Avtar Singh and as such, this statement of PW-2 shows that there is party faction in the village.

Learned trial Court, after discussing all the evidence in minute detail, acquitted the accused by giving benefit of doubt. As per doctor, the injuries on the person of PW-1 may be self-suffered, even due to fall.

All these facts show that prosecution has failed to prove the guilt of the accused beyond reasonable doubt and the judgment dated 25.04.2013 passed by learned Sessions Judge-cum-Special Judge, Hoshiarpur, is correct, as per evidence and law and does not require any interference from this Court.

Though, no application has been filed for seeking leave to file

appeal but at the time of arguments, learned counsel for the appellant argued

that leave to appeal be granted. From the above discussion, I find that findings given by learned trial Court are correct and as per law, therefore, no ground is made out for grant of leave in this case.

Resultantly, finding no merit in the present appeal, the same is dismissed.

October 03, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No