

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

**CRM-A No.1064-MA of 2013 (O&M)
Date of Decision: July 11, 2018.**

Harphool

.....APPLICANT (s)

VERSUS

State of Haryana and others

.....RESPONDENT(s)

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sushil Sheoran, Advocate
for the applicant-appellant.

Mr. Deepak Grewal, D.A.G. Haryana.

None for respondents No.2 to 4.

SURINDER GUPTA, J.(Oral)

Applicant Harphool has sought leave to appeal against the judgment of acquittal passed by learned Additional Sessions Judge, Bhiwani in complaint filed by him against the private respondents for offences punishable under Sections 323, 506 read with Section 34 of Indian Penal Code (for short-IPC) and 3 (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short-SC/ST Act).

The case of the applicant-complainant, in brief, is that on 03.05.2010, three boys from village school came to him and told that he had been called by Principal of the school and Sarpanch Kanwarpal (respondent No.2). On reaching the school, Principal asked him as to who had stopped the demolition work of school boundary wall. Applicant-complainant

who were present there, used casteist language against applicant-complainant by addressing him as “*Saale Dedh Kamin*” and alleged that he had stopped the demolition of the boundary wall. All of them assaulted the applicant-complainant and gave him legs and fist blows. Rakesh, Subhash and Anil came to the spot, who got him relieved and complainant was taken for treatment to CHC, Kairu. The matter was reported to the police but no action was taken and the complaint was filed before Additional Chief Judicial Magistrate, Bhiwani.

After recording preliminary evidence, private respondents were summoned and charge-sheeted for the offences punishable under Sections 323, 506 read with Section 34 IPC and 3 (x) of SC/ST Act to which they pleaded not guilty and claimed trial.

Applicant-complainant himself appeared as PW1 and examined Subhash as eye-witness, Asstt. Sub Inspector Banshi Dhar as PW3 and Lady Constable Urmila as PW4. Eyewitnesses cited in the complaint namely Rakesh and Anil were given up as unnecessary.

Learned trial Court formulated following points for determination:-

- (i) Whether accused caused bodily injuries to the complainant by giving kick and fist blows on 03.05.2010?
- (ii) Whether accused used derogatory language intentionally against the complainant knowing him to be the member of Scheduled Caste i.e. Chamar words “*Saale Kamin Dedh*”?
- (iii) Whether accused intentionally criminally intimidated complainant by giving threat of his killing?

Learned trial Court found that occurrence alleged to have been taken place in the office of Principal of the School Brahma Nand, who appeared as DW1 and stated that no person used any casteist language in the meeting convened on 03.05.2010 in which private respondents and other respectables of village were present. Rakesh DW2, who was cited as eyewitness in the complaint has also controverted the contention of applicant-complainant that any of the private respondent had used words “*Saale Kamin Dedh*”. Regarding the injuries caused to the applicant-complainant, it was alleged that after the occurrence, he was taken to CHC, Kairu but no medical evidence was produced. The casteist words alleged to have been uttered by private respondents have not been attributed to either of the accused/respondents by the complainant or PW Subhash. Learned trial Court also took note of the fact that the applicant-complainant is old man of 70 years and in case, he has been caused injuries as alleged in the complaint, he might have required medical assistance but the complainant avoided to produce any medical evidence in support of his contention. The version about the occurrence as stated by the applicant-complainant and eyewitness (PW2) did not inspire confidence in the mind of learned trial Court and complaint was dismissed resulting in acquittal of private respondents.

Learned counsel for the applicant-complainant has argued that though there was no medical evidence of injury suffered by the applicant-complainant, there was no reason for the trial Court to disbelieve the statements of complainant (PW1) and eye witness Subhash (PW2) regarding derogatory words used by the private respondents and the injuries caused to

discarding the statements of applicant-complainant and eyewitness Subhash to this extent.

The occurrence in this case has taken place in the office of Principal, who when stepped into the witness box as DW1,, denied the occurrence. The eyewitness of the occurrence Rakesh (DW2) also denies that any injury was caused to the complainant or any casteist words were used against him. Applicant-complainant had also moved a complaint to the police, which admittedly was inquired and found to be false. The complainant has not specifically attributed casteist words to any of the private respondents. Admittedly, he is an old man and in case, he has been caused legs and fist blows, resulting in his falling on the ground, he must have received some injuries. It is alleged that after the occurrence, he was taken to CHC, Kairu but no medical evidence was produced.

Keeping in view all the facts and circumstances, I find no error, omission or infirmity in the judgment passed by the Court below calling for any interference therein, making out any reason to allow leave to appeal.

Consequently, application for grant of leave to appeal has no merits. Dismissed.

July 11, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***