

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-473-MA-2013

Date of decision-22.11.2018

Gurmail Singh

....Appellant

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajiv K.Trikha, Advocate for the appellant.

MANOJ BAJAJ, J.

The applicant Gurmail Singh is seeking leave of this Court to challenge the judgment dated 17.05.2013 passed by Sessions Judge-cum-Special Judge, Hoshiarpur in SC/ST case No.19 of 15-04.2010/12 whereby accused-Joginder Pal and Balbir Singh herein respondent Nos.2 and 3 respectively were acquitted of the charges.

Gurmail Singh had brought a complaint against accused persons for the offences punishable under Section 3 (1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 323 and 506 read with Section 34 of Indian Penal Code. The complaint was filed on the allegations that the accused respondents worked as his subordinates in JR Government Polytechnic College, Hoshiarpur as Draftsman and Foreman Instructor respectively and their behaviour towards the complainant was not good. It is alleged that complainant had given complaint to the Principal regarding this non-cooperative attitude of the accused persons, whereby

warning letters were issued to accused Balbir Singh and due to this he had grudge against the complainant. Joginder Pal-Draftsman is also stated to have joined hands with accused Balbir Singh against the complainant.

It is further pleaded in the complaint that on 03.07.2006 at about 5.20 p.m., occurrence took place when the accused persons had manhandled the complainant and used abusive language against him. The alleged utterances were directly related to the caste to which the complainant belonged and with the object to insult and humiliate the complainant in public view. It is further narrated that the occurrence was witnessed by Piara Singh resident of Mohalla Tibba and Ram Lal son of Nanak Chand resident of Ravi Dass Nagar, Hoshiarpur.

After summoning of the accused, the case was committed to the Special Court vide order dated 16.04.2009 passed by Chief Judicial Magistrate, Hoshiarpur and thereafter, the trial commenced. The prosecution in all examined 5 witnesses and in response to the evidence of the prosecution, accused Joginder Pal gave explanation under Section 313 Cr.P.C that the complainant had grudge for the reason that he was interested in marrying divorcee daughter of Chanan Singh and accused Joginder Pal upon inquiry by Chanan Singh informed him that complainant Gurmail Singh is already married and due to this grudge he has been falsely implicated. It is also mentioned by accused that earlier a complaint was given by Gurmail Singh to the Police where he did not appear in the inquiry and the said complaint was dismissed.

The defence also examined five witnesses. After examination of

the entire evidence on record, the trial Court proceeded to acquit the accused vide its judgment dated 17.05.2013 by extending them the benefit of doubt.

Learned counsel for the applicant-appellant has contended that the impugned judgment is against the evidence on record as the prosecution had successfully established the charges against the accused persons. It is argued by Mr. Trikha that the version of the complainant is supported by PW-3 and PW-4 who were eye-witnesses of the alleged occurrence.

Learned counsel for the applicant-appellant has been heard and with his assistance, I have gone through the impugned judgment carefully.

The trial Court has examined the material on record minutely particularly the evidence of PW-2 (complainant) who has suffered vital submission in his cross-examination. It is noticed by the trial Court that PW-3 (Ram Lal) was previously known to the complainant as he had appeared as his witness (CW-3) in complaint case titled as “**Ram Lal Vs. Gurmail Ram**” bearing complaint No.150 of 2004/2006 decided on 04.09.2010. The trial Court has further noticed that PW-2 has also admitted that he visited the house of Ram Lal on few occasions and therefore, written the specific finding that the stand of complainant that he has no concern with PW-3 is nothing but an absolute lie. On this the defence witness DW-1 had produced the statement of present complainant as a witness in complaint brought by Ram Lal. Besides Exhibit D-2 further reveals that present complainant-Gurmail Singh and witness Ram Lal were associated with Shri Guru Ravi Dass Sabha of Mohalla Ravi Dass Nagar as Executive member respectively.

Similarly, PW-4 Piara Singh is also previously known but as

admitted by complainant in his cross examination. Complainant and PW-4 Piara Singh belong to the same locality of Tibba Sahib. This discussion is recorded by the trial Court in para No.13 of the impugned judgment. The trial Court has further noticed that the occurrence took place on 03.07.2006 whereas the complaint was given to the Police on 05.07.2006, however, the complainant- PW-2 never cooperated with the Police in the inquiry initiated on his complaint. The trial Court examined the report Exhibit D-A which clarifies that complainant did not appear before DSP and it stated by complainant that he does not wish to pursue the complaint as he has already filed a complaint in the Court. On the basis of this material it is observed by the trial Court that the contents of Para No.7 of the complaint that DSP did not take any action is also incorrect. The trial Court has written a categorical finding that the version of the complainant on material aspects of the case is found to be false and the said finding is founded either on the statement suffered by the complainant or on the documentary material. The accused in their defence had already also examined DW-5 Manjit Kumar to prove that a FIR No.256 dated 12.12.2008 and Police Station Model Town Hoshiarpur lodged by present complainant against Paramjit Kaur Pawla were also found to be false. Ex. D-5 and Ex. D-6 are the reports which recommended the cancellation of the said FIR. The trial Court has taken in to account the entire material to hold that the version of the complainant does not inspire confidence besides the defence evidence also proves the versions of the complainant to be seriously doubtful as one of the accused namely, Balbir Singh was not present at the time of alleged occurrence. For the said purpose

evidence of DW-2 and DW-4 have been relied upon.

The Court of appeal ought not to interfere with the judgment of acquittal unless the same is perverse or highly unreasonable. In the instant case, the judgment of acquittal rendered by the Court below is neither perverse nor unreasonable and it cannot be said that the Court based its findings on irrelevant or inadmissible evidence.

In the considered opinion of this Court the view adopted by the Court is based on the correct appreciation of the evidence and serious doubt erupts from the evidence of the prosecution and therefore, there is no reason to interfere with the impugned judgment. In the circumstances, the application for leave to appeal is dismissed.

(MANOJ BAJAJ)
JUDGE

22.11.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No