

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

**Crl. Misc. No.A-1035-MA of 2016(O&M)
Date of Decision: 16.07.2018**

Pooja Singh

.. Applicant

Vs.

Bhim Singh & Ors.

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. A.P.S. Deol, Sr. Advocate with
Mr. Davinder Bir Singh, Advocate
for the applicant.**

ANITA CHAUDHRY, J.

The applicant is seeking leave to challenge the judgment dated 02.04.2016 by virtue of which the trial court has ordered acquittal of the respondents in the complaint filed by her under Sections 323, 354 and 506 read with Section 34 IPC and under Sections 3(1)(x)(xi) and 4 of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for brevity, the Act).

A complaint was filed against the respondents by the applicant who claimed herself to be a Social Activist. It was alleged that on 17.06.2012 she had gone to the police station Palam Vihar, Gurgaon to know the status of FIR No. 58 dated 28.03.2012 lodged against Surender Rathi & Ors. According to her, the case was false and she was pursuing their cause. It was averred that when she was in the Police Station along with Surender Rathi and other social workers, then accused Bhim Singh, Pawan, Parveen, Naveen accompanied by two other persons came there.

Bhim Singh and his son Pawan hurled abuses in the name of her Caste while

Parveen and Naveen caught hold of her hand and exhorted that they would teach her a lesson. According to her, it had occurred in the presence of Inspector Joginder Singh, but he failed to intervene, rather he threatened her to implicate in a false case. It was also averred that accused did all this because she had extended help to the complainant in FIR No. 29 dated 11.02.2012 registered at Palam Vihar Police Station where Bhim Singh was accused of beating a Molvi of a Mosque. She reported the matter to the higher authorities, but no action was taken and the complaint was filed in the Court against Bhim Singh, Pawan, Parveen, Naveen and Inspector Joginder Singh.

At the trial the complainant examined herself as PW1 and reiterated the allegations. Her statement was corroborated by PW3 Virender Kumar who claimed that the incident had taken place in his presence. PW2 Const. Pardeep Kumar deposed and proved the applications/ complaints sent by the applicant regarding the incident and PW4 Const. Guru Mehar brought the record pertaining to FIR No. 29 dated 11.02.2012 registered at Palam Vihar Police Station under Sections 323, 341, 298, 506 read with Section 34 IPC wherein accused Naveen and Uddal Singh were put to trial.

The accused abjured the trial in their statements under Section 313 Cr.P.C. and examined four witnesses in defence.

On conclusion of trial, the trial Court doubted the credibility of complainant and her witness and rejected the story holding it to be highly improbable. The trial Court acquitted the respondents.

Feeling dis-satisfied, the complainant has approached this Court and has laid challenge to the judgment of acquittal.

I have heard learned counsel for the applicant and have gone

through the records of the Court below carefully.

The prosecution case rests on the statements of complainant and PW Virender. Virender was an accused in the FIR lodged under Section 420 IPC at the instance of respondent Bhim Singh for bungling over a crore of rupees and he had reasons to depose against the respondent. He was found to be inimical towards the respondents. His statement was discarded by observing that he merely towed the line of complainant only to wriggle out of his criminal liability instituted at the instance of respondent Bhim Singh. None of the other persons who allegedly accompanied the applicant to the police station were examined. No explanation was given.

Leaving the statement of PW Virender aside, we have the solitary statement of complainant. Her statement was minutely analyzed by the trial Court and was found suffering from infirmities and was doubted as highly improbable.

It has come on record that complaint Ex.PA was moved by the applicant to the police and the police received another complaint Ex.PD from the higher authorities, concerning the present occurrence. Enquiry in the matter was conducted by an officer of the rank of Assistant Commissioner of Police and the allegations of complainant were found incorrect vide report Ex.DA. In the report submitted to the SC & ST Commission, the police had not disputed the presence of the parties in the police station on the fateful day, but it was concluded that there was only exchange of hot words between the parties in the police station and sarcastic remarks were never made by the accused. The complaints Ex.PA and Ex.PD were made on 18.06.2012 and the complaint was filed in the Court on 03.07.2012 without waiting for the outcome of her complaints.

The trial Court doubted her statement as it noted that she had registered cases against her in-laws. She had filed a case with the allegations of sarcastic remarks against one Parshant but later she compromised with the accused. Earlier also she had made similar allegations which were found to be false. The allegations were found to be highly improbable as such an incident and attempt on her modesty could not be in the presence of police and other social workers.

The reason for animosity was not proved. According to the complainant, the accused were nursing grudge as she had helped the complainant in a case where Bhim Singh accused had beaten a Molvi and had pulled his beard. The FIR was produced on record but it was not against Bhim Singh nor there was allegation of pulling the beard nor the complainant was cited as a witness.

Respondent Joginder Singh, Inspector CIA was arraigned as accused in the complaint on account of his inaction. The allegation of the complainant was negated for variety of reasons. Firstly, he was acting or purporting to act in discharge of his official duties and his prosecution was held bad for want of mandatory sanction under Section 197 Cr.P.C. being a public servant. Secondly, he was not a competent person to investigate or enquire into the allegations under the Act. Thirdly, it was not proved by the applicant that she at any point of time had made any complaint to Inspector Joginder Singh upon which he failed to take any action or had not forwarded the same to higher authorities. The complaints sent by her to the higher authorities were enquired into by an officer not less than the rank of ACP. No substance was found in her allegations. No call details were proved to show that she had ever called to Joginder Singh on phone and in

turn he had threatened to implicate in a false case.

Considering these facts in the backdrop, it was held that the applicant was not a credible witness and she was not pursuing a social cause but had personal reasons to implicate them. The accused had succeeded in probablizing their defence.

I have gone through the evidence and other material on record. The findings returned by the trial Court are based on correct appreciation of evidence. The High Court ought not to interfere with the order of acquittal unless the judgment of acquittal is perverse or highly unreasonable as held in **Vimal Singh Vs. Khuman Singh, 1998(4) RCR(Crl.) 423**. 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 circumstances, the application for leave to appeal is dismissed.

July 16, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No