

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-23711-2017 in/ and
CRM-A- 1606-MA-2017 (O&M)
Date of decision: 12.11.2018

State of Haryana

.....Applicant

versus

Dharambir and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sandeep Vashisht, DAG Haryana

1. *Whether Reporters of Local newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

CRM-23711-2017

For the reasons mentioned in the application the same is allowed and delay of 212 days in filing the application for grant of leave to appeal stands condoned.

CRM-A- 1606-MA-2017

Heard on application under Section 378(3) Cr.P.C.

In a complaint before the police, one Babli wife of Bhira had alleged that on 27.4.2013 all the accused in connivance with each other entered her house at about 9.00 p.m., armed with iron rods, lathi, danda and gandasa etc. after breaking the main door and hurled abuses at her in the name of her caste. House hold articles such as Television, washing machine, almirah etc. were also destroyed and beatings were given to her daughter and son. She was threatened to vacate the house.

Charges were framed against the respondents under Sections

148, 323, 325, 452, 506 IPC and Section 3(I)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Perusal of the judgment of trial Court shows that the trial Court has discarded the version put forth by the complainant on various grounds. First ground is that one month before registration of present case, on 27.4.2013, the complainant had filed various complaints before the authorities, which were exhibited in defence as Ex.D6 and D7. In the complaint Ex.D7 dated 29.3.2013 i.e. 2 days after the occurrence and the complaint Ex.D8 dated 29.3.2013 i.e. also two days after the occurrence, complainant has nowhere stated that any remarks against her caste were made by the accused. Therefore, trial Court found that allegation regarding the accused uttering the remarks regarding her caste is exaggeration. Moreover, such remarks are alleged to have been made in the house of the complainant and nobody from the public was present. Therefore, trial Court rightly found that offence under Section 3(I)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was not made out. Main version was also doubted on several grounds. In the complaint Ex.D7 dated 29.3.2013 complainant had mentioned that on the night of 27.3.2013, Rajender and her sons namely Sandeep, Sunil, Subhash, Sonu and Mesha and his sons Rinku, Ravi and Ramphal forcibly entered her house and gave beatings to her son Vikky and Sharwan. However, it was not alleged that her daughter namely Golu was also given any injury. The name of accused Dharamvir Rathi was not mentioned. Further, it was alleged in the said complaint that the said Dharambir Rathi came to the neighbour and stated bad things about her on 28.3.2013. Complaint filed a complaint dated 19.4.2013 (Ex.D6) i.e. little less than one month later before SP Faridabad,

wherein as many as 15 persons including Dharambir Rathi were named and it was also alleged that accused took away one Mangal Suter, gold ear ring, two mobiles and Rs.10,000/-. Photographs Ex.P7 to Ex.P15, placed on the file would show that only small things are shown to be broken and there is no photograph of broken TV. The trial Court further found that the evidence is also discrepant regarding the medical evidence. Babli has not denied that Sonu and Nanhi did not receive any injury but stated that they came to Tohana at about 2/2.30 p.m., after they received injuries at Jakhal, which means that injuries were received before 2.00 p.m. Sonu was medico legally examined on 28.3.2013 at about 2.50 p.m. Two injuries were stated to have been caused within 20 hours and within 15 hours respectively. Complainant has not explained that even before the presence occurrence, which is alleged to have taken place on 27.3.2013 at 9.00 p.m. as to how said injuries were received.

Considering the delay and the above noted discrepancies, the trial Court found that the version put forth by the complainant is not proved beyond all reasonable doubts.

I am of the view that the view taken by the trial Court is correct view and there is no ground to interfere in the same. When the evidence is not supported by the medical evidence and the glaring discrepancies as discussed above are found, the trial Court rightly recorded the judgment of acquittal.

As such present application is accordingly dismissed.

12.11.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No