

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

CRM-A-526-MA-2015(O&M)

Date of decision:-28.9.2018

Rajwant Kaur

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Arihant Jain, Advocate
for the applicant.

H.S. MADAAN, J.

CRM-10246-2015

Prayer made in the application is for condoning the delay of
33 days in filing the appeal.

Heard. Sufficient cause has been shown for condoning of
delay in filing of the appeal. The application is, therefore, accepted and
the delay of 33 days in filing of the appeal is condoned.

CRM-A-526-MA-2015

Applicant – Rajwant Kaur has filed this application under
Section 378(4) Cr.P.C. seeking special leave to appeal.

Briefly stated, facts of the case are that complainant – Rajwant Kaur had filed a criminal complaint against accused Balbir Singh Kamboj and Jasvir Kaur and after recording of preliminary evidence, the accused aforesaid were summoned to face trial by Judicial Magistrate Ist Class, Dera Bassi and on appearance of the accused, after complying with the provisions of Section 207 Cr.P.C., the case was committed to the Court of Sessions, from where it was assigned to learned Additional Sessions Judge, SAS Nagar (Mohali).

As per the case of the complainant – Rajwant Kaur, earlier her husband was working as *GRANTHI* in Gurudwara Sahib of village Jarot and they were living in a quarter/house in the Gurudwara premises; that they belong to Ramdassia caste, whereas accused Balbir Singh and his wife Jasvir Kaur belong to Kamboj community; that Balbir Singh was President of committee of Gurudwara Sahib; after about 4-5 months of appointment of husband of complainant as *GRANTHI*, accused Balbir Singh used to visit her quarter in absence of her husband Pakhar Singh with bad intention on one pretext or the other; in the month of March, 2007, when husband of the complainant was away from the home, then Balbir Singh came to quarter of the victim and told her that his wife remains sick and he was in need of a decent lady like the complainant for company; the complainant objected to such remarks of Balbir Singh and told him not to repeat such thing in future; that Balbir Singh did not come to quarter of the complainant for about two months; the complainant had informed her husband in that regard, who confronted Balbir Singh; then Balbir Singh started talking with other members about removal of Pakhar Singh as *GRANTHI* from the Gurudwara; that

an assembly of members of the managing committee present and earlier was convened, where it was observed that Balbir Singh should not go to quarter of the complainant in absence of her husband; that Balbir Singh and his family members became angry and they gave beatings to Pakhar Singh; an altercation had taken place between members of new committee and old committee of Gurudwara Sahib on the point of removal of Pakhar Singh as *GRANTHI*; on coming to know that the matter might be reported to the police, Balbir Singh apologized and promised that he would not go to the quarter of complainant in absence of her husband; on 16.7.2007 at about 9:30/10:00 when Pakhar Singh had gone to Lalru along with Amarjit Singh and Gurmukh singh, then Balbir Singh went to quarter of the complainant and told her that he could not live without her and then he caught of her arm, hugged her and threw her on the cot and started molesting her; the complainant resisted and gave a kick blow in abdomen of Balbir Singh, as a result of which his turban was dislocated and fell on the ground; the complainant raised hue and cry, then her sister Balbir Kaur and her husband Tarun Singh, who had come to meet them reached at the spot; Balbir Singh ran away after lifting his turban; when Pakhar Singh returned home, the complainant narrated all the incident to him, then they went to the house of Balbir Singh, where wife of accused Balbir Singh, namely, Jasvir Kaur met them; on being informed regarding the incident, Jasvir Kaur started abusing them giving bad names for their caste saying that “*TERIYA WARGIA 20 CHAMARIA FIRDIA HAN*” ; that on 17.7.2007 at about 6:00/6:30 a.m., Balbir Singh accused along with his sons Lucky and Gurmukh Singh and wife Jasvir Kaur trespassed in the quarter of

the complainant and gave beatings to the complainant and her husband asking them to leave the quarter holding out threats to kill them. According to the complainant, she had submitted a complaint to the police but police did not take any action in the matter, as such, she had to file a private complaint.

After the case was received in the Court of Additional Sessions Judge, SAS Nagar (Mohali), he finding that a charge for the offences under Sections 354, 506, 452, 500 IPC and Section 3(X) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act was made out against the accused, charge-sheeted them accordingly, to which, they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined as many as four witnesses.

PW1 Pakhar Singh, husband of the complainant supported the case of complainant on material aspects.

PW2 Rajwant Kaur complainant repeated on oath her case as given in the criminal complaint.

PW3 Balbir Kaur lent support to the case of the complainant.

PW4 Ashwani Kumar, Technical Assistant office of Joint Registrar-cum-Naib Tehsildar, Ghanaur, District Patiala deposed that an application received on behalf of Pakhar Singh son of Nasib Singh, resident of village Harpalan, Sub-Tehsil Ghanur for issuance of Scheduled Caste Certificate in his name; that Pakhar Singh belongs to Ramdassia community, which is recognized as a Scheduled Caste as per the Constitution (Scheduled Caste) Order 1950, then Scheduled Caste

Certificate Ex.PW4/A in the name of Pakhar Singh was issued.

With that the evidence of the prosecution/complainant stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they are innocent and they have been falsely implicated in the case.

In defence evidence, accused examined Kuldeep Singh as DW1, who stated that he is Member of village Gram Panchayat and both the parties are known to him; that accused Balbir Singh was President of Gurudwara Parbhandhak Committee of village Jarot since the year 2000; that Pakhar Singh was working as *GRANTHI* in the said Gurudwara and he used to indulged in some objectionable activities prohibited in *SIKH* religion and people of area made complaint in that regard to President of Gurudwara Committee and had moved complaint with Police Station Lalru Mandi; that on this complaint Pakhar Singh was called by the police; that Rajwant Kaur had also moved a complaint as a counter-blast; thereafter, several false complaints were sent by the complainant to police, inquiries were conducted and complaints moved by the complainant were found to be false; that Rajwant Kaur is not wife of Pakhar Singh as per the version of villagers and no quarrel or altercation had taken lace with Pakhar Singh and Rajwant Kaur on one side and accused persons and their family members on the other side; that no words against the caste of complainant were spoken by the accused Balbir Singh, who used to visit Gurudwara Sahib daily and bears a good

character.

With that the defence evidence stood closed.

After hearing arguments, learned trial Court came to the conclusion that the prosecution had not been able to prove its case against the accused beyond a shadow of reasonable doubt, as such giving the benefit of doubt, both the accused were acquitted.

The reasoning given by the trial Court is as follows:

- (i) that the complainant and her husband had not brought the matter to the knowledge of any other inhabitant of the village that accused Balbir Singh had allegedly gone to house of complainant in March, 2007;
- (ii) that from the record, it comes out that there was a dispute regarding removal or continuation of Pakhar Singh as *GRANTHI* in the Gurudwara since March, 2007;
- (iii) that neither Pakhar Singh nor his wife Rajwant Kaur had submitted any complaint to the police or other authority despite having allegedly received beatings and use of derogatory remarks against their caste by the accused;
- (iv) that presence at the spot of Balbir Kaur a real sister of the complainant along with her husband Tarun, at the relevant time to be unnatural;
- (v) that it being very unnatural that no other person of the area got attracted to the spot when the complainant had allegedly raised hue and cry on

arrival of Balbir Singh in her house;

(vi)that first complaint Mark A moved on 17.7.2017 filed on that very day not containing any reference to incident dated 16.7.2017 when Balbir Singh had allegedly trespassed in the house of complainant and molested her, rather according to this complaint Balbir Singh had entered her house four months prior to 17.7.2017 and had grappled with her;

(vii)that another application Mark A2 showing that Balbir Singh along with other inhabitants of the village had submitted a complaint to SHO P.S. Lalru against Pakhar Singh, *GRANTHI* of Gurudwara that he was indulging in witchcraft and they did not want to keep Pakhar Singh as *GRANTHI*, the said complaint was moved on 17.7.2017 when the complainant had also submitted a complaint to the police;

(viii)that the alleged incident dated 16.7.2017 was mentioned for the first time by the complainant in her complaint Ex.PW2/A moved to Inspector General of Police, Patiala and police proceedings dated 31.8.2007 showing that she had not referred to the alleged molestation by accused Balbir Singh and rather stating that on 16.7.2007 Balbir Singh and his other relatives and party members, namely, Harbans Singh, Gurmukh Singh, Lakhwinder Singh, Sharanjit

Singh had entered the house of complainant along with their weapons;

(ix)that even in her complaint Ex.PW2/C moved before SSP, Mohali on 24.9.2007, the complainant has not referred to the incident of 16.7.2017 and rather stated that the accused persons had got her family evicted from the Gurudwara quarter without giving her husband the customary six monthly crop share;

(x)that there are drastic improvements in the criminal complaint filed by the complainant before Illaqa Magistrate on 12.10.2007 and complaints submitted by her to the police authorities earlier;

(xi)the complainant being unable to examine any independent witness from the village in support of her allegations in the complaint;

(xii)that admission by the complainant that the matter had been inquired into by DSP and SP and that her complaints were found to be false.

The judgment of acquittal left the complainant aggrieved and she has knocked at the door of this Court by moving an application under Section 378 (4) Cr.P.C. for grant of special leave to appeal against the judgment of acquittal.

I have heard learned counsel for the applicant besides going through the record.

The judgment passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and

correct interpretation of law. There is no illegality or infirmity therein.

Thus no ground is made out to grant special leave to appeal in this case. The application is, therefore dismissed accordingly.

28.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No