

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-1944-SB-2018 (O&M)

Date of decision: 12.03.2019

Rajesh Kumar and another

..... Appellants

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Akashdeep Singh, Advocate for the appellants.

Mr. Munish Sharma, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this appeal under Section 341 Cr.P.C., the appellants have laid challenge to the complaint dated 04.04.2018 filed by the Reader of learned Special Judge, Rohtak, under Section 195 IPC, against them, on the allegations that they deposed falsely, during trial in case, FIR No. 469 dated 22.09.2011, under Sections 323 and 324 read with Section 34 IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short-'the Act'), Police Station Kalanaur, lodged by them against one Vidya Rana, Principal, Nursing College, Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences, Rohtak (PGIMS).

Briefly, appellant No. 1-Rajesh Kumar, got registered aforesaid FIR No. 469 dated 22.09.2011 against Vidya Rana, Principal of Nursing College, PGIMS, Rohtak, on the allegations that in the morning of 22.09.2011, she instigated three teachers of her college, namely; Shashi, Sushila and Sunita to beat him up. Resultantly, he was

mercilessly beaten up. As a result thereof, he received several injuries on his person. Vidya Rana, also abused appellant No. 1 in the name of his caste in public view.

After holding trial, Vidya Rana, was acquitted by the trial vide judgment Annexure A-1, with observations to prosecute the appellants under Section 195 IPC, for deposing falsely in Court to illegally secure her conviction.

Consequently, Reader of the trial Court filed impugned complaint in the Court of learned Chief Judicial Magistrate, Rohtak, in which appellants were summoned to face trial under Section 195 IPC.

Learned counsel for the appellants *inter alia* contends that appellants could not have been prosecuted under Section 195 IPC, because to prosecute a person under this section, his effort to secure illegal conviction of a innocent person for 7 years or more has to be proved. In the instant case, Principal Vidya Rana, was got prosecuted by appellant No. 1, vide aforesaid FIR, under Sections 323 and 324 read with Section 34 IPC and Section 3 of the Act. The maximum punishment against said offences is not more than 5 years. Considering this aspect of the matter, the trial Court ought to have outrightly dismissed the complaint, without summoning the appellants.

On the other hand, learned state counsel did not fruitfully refute the submissions of learned counsel for the appellant.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal merits acceptance for the

reasons to follow:

For ready reference, Section 195 IPC is reproduced hereunder:-

“ Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by the law for the time being in force in India is not capital, but punishable with imprisonment for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.”

The language of above section makes it, abundantly clear that impugned complaint against the appellants is not maintainable, inasmuch as, the appellants did not ever intend to procure conviction of Principal Vidya Rana, for life imprisonment or for 7 years. Principal Vidya Rana, was only made to face trial under Sections 323 and 324 read with Section 34 IPC and Section 3 of the Act, in which the maximum punishment is of 5 years.

Thus, in view of discussion made above, the instant appeal is allowed and impugned complaint dated 04.04.2018 filed by the Reader of Ld. Special Judge, Rohtak, under Section 195 IPC, against the appellants is quashed.

March 12, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No