

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Appeal No.S-243-SB of 2015

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Date of decision:16.01.2019

Gurwinder Singh

...Appellant

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Manvinder Singh Sidhu, Advocate for the appellant.

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Inderjit Singh, J.

This appeal has been filed challenging the impugned judgment of acquittal dated 20.09.2014 passed by learned Additional Sessions Judge, Ludhiana in FIR No.59 dated 20.07.2012 registered for the offences under Sections 341, 342, 323, 294, 506, 148 and 149 IPC and Section 3(i)(iii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC & ST Act') at Police Station Sudhar, Ludhiana.

I have heard the learned counsel for the appellant and have gone through the record.

From the record, I find that challan was presented against 10 persons by Police of Police Station Sudhar, Ludhiana in FIR No.59 dated 20.07.2012 registered for the offences under Sections 341, 342, 323, 294, 506, 148 and 149 IPC and Section 3(i)(iii) of SC and ST Act. The brief

facts of the case as noted down by the learned Additional Sessions Judge, Ludhiana in his judgment dated 20.09.2014 are as under:-

“The present case has been registered at the instance of complainant-Gurwinder Singh on the basis of his statement recorded on 20.7.2012 submitting therein that he was a student of 10+1 in Senior Secondary School Pakhowal and his father Bikkar Singh was a labourer and his mother a house wife. On 18.7.2012 the Govt. School was closed when he accompanied by Satwinder Singh son of Hoshiar Singh and Jagtar Singh son of Paramjit Singh at about 2/3 P.M. reached near the school where Raman Singh son of Gurmail Singh, Robin son of Billa, Tarandeep Singh @ Tarna son of Darshan Singh, Manvir Singh @ Mani son of Harpal Singh @ Mani, Vicky son of Avtar Singh, Harmesh Singh son of Hardeep Kumar, Honey son of Happy caste Pandit, Ramandeep @ Rammi son of Avtar Chander, Harmail Singh resident of Nangal Kalan, Kirandeep Singh son of Karamjit, Ricky son of Budh Singh, Kulwant Singh son of Mohan Singh, Mandeep Singh son of Mohan Singh and Pappa son of Chatur Singh caste Ramdasia residents of Village Rajgarh armed with dangs were already present there, who stopped them and beat them up. Jagtar Singh son of Paramjit Singh was taken inside the school, who was tied up side down to a tree and beaten up whereas all the aforesaid in connivance with each other removed their clothes, burnt the clothes and thereafter forced them to leave naked. The motive

behind the occurrence was that aforesaid suspected that they had teased Harmandeep Kaur daughter of Tejinder Singh of their village who was cousin sister of Raman Singh. The above said in connivance with each other had beaten them up after locking them in the school and had taken off their clothes, burnt the same and had taken their objectionable photographs and that necessary action be initiated.”

On presentation of challan, the trial Court finding *prima facie* case against the accused framed charges for the offences punishable under Sections 341, 342, 323, 294, 506, 148 and 149 IPC and Section 3(1)(iii) of the SC & ST Act, to which the pleaded not guilty and claimed trial.

In support of its case, the prosecution examined 10 witnesses and thereafter closed its evidence.

At the close of prosecution evidence, the accused were examined under Section 313 Cr.P.C. and were confronted with the evidence of the prosecution but they denied the correctness of the evidence and pleaded themselves as innocent. The accused did not led any evidence in defence and only scheduled caste certificate Ex.D.1 has been tendered.

After going through the evidence and material placed on record, the learned trial Court vide impugned judgment acquitted the accused-appellant as stated above.

I have gone through the findings given by the learned trial Court which are correct as per evidence and law. The reasoning given by the learned trial Court, in no way, can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material

evidence has been misread by the Court below and as to which material evidence has not been considered by the Court below. The learned trial Court has appreciated the evidence in right and proper perspective. The learned trial Court has minutely discussed the statement of the witnesses and have come to the conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Firstly, the occurrence in the present case took place on 18.7.2012 and the FIR was registered on 20.7.2012. The witnesses are contradictory on the number of the accused. Some of the witnesses have mentioned 13 persons and some have mentioned that 15 persons were present at the place of occurrence. The names of Manjinder Singh and Baljit Singh were not mentioned, but the same are admitted by the complainant in his cross-examination belonging to Scheduled Castes community. Therefore, no offence is made out under SC and ST Act. Furthermore, I have gone through the injuries received by Gurminder Singh, Satwinder Singh two minor boys. If ten persons are armed with 'dandas' etc., they will not cause such type of injuries to the boys. Furthermore, the delay in the present case remained unexplained. The version of the prosecution looks unnatural. If 14 armed accused with sticks etc. beat these two boys, then they will not get such type of injuries. It looks that the complainant has exaggerated the version and the delay in recording the FIR has been used to falsely implicate so many persons. No specific injuries have been mentioned. No specific weapon has been mentioned. The trial Court has also discussed the discrepancies in detail in the statements of the witnesses. A perusal of the judgment passed by the learned trial Court shows that a reasonable doubt exists in the prosecution

version and the trial Court has rightly acquitted the accused.

Therefore, from the above discussion, no ground is made out to set aside the impugned judgment passed by the learned trial Court.

Hence, finding no merit in this appeal, the same is dismissed.

January 16, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No