

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-4529-SB-2018 (O&M)
DATE OF DECISION:-27.02.2019

RAVINDER PARTAP SINGH

...APPELLANT...

V.

STATE OF HARYANA

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Dinesh Arora, Advocate for
Mr. Kunal Muthreja, Advocate,
for the appellant.

Mr. R.K. Makkar, Sr.DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this appeal challenge has been laid to the impugned judgment of conviction and order of sentence dated 29.10.2018 of the trial court holding the appellant guilty under Section 323/34 IPC and Section 3(1)(s) of Scheduled Caste & Schedule Tribes Act, 1989 (for short, "SC/ST Act) and sentenced him to undergo rigorous imprisonment for 6 months with fine of ₹5,000/- under Section 3(1) (S) of SC/ST Act. In default of payment of fine to further undergo simple imprisonment for one month, while sentencing him under Sections 323/34 IPC for the period already undergone, with fine of ₹1,000/-. In default of payment of fine to undergo simple imprisonment for 7 days. However, fine amount was paid.

In nutshell, appellant was booked and tried in case FIR No.572

dated 07.10.2016, under Sections 323, 506/34 IPC and Section 3(1)(s) of

SC/ST Act, Police Station Mujessar, Faridabad, on the allegations that in the night of 05.10.2016, appellant and 3 others under the influence of liquor parked their car in front of the house of complainant-Tejpal, causing inconvenience to him in ingress and egress. Consequently, complainant requested the appellant and his father to remove their car parked in front of his house, which annoyed the appellant. He became furious and abused the complainant in the name of his caste and also gave a slap on his right ear. Father of the appellant also gave fist blows in the chest of the complainant, whereas, their co-accused Gurvinder by pulling him down on the ground gave him beatings with kicks and fist blows.

After holding trial, co-accused of the appellant were acquitted and only he was held guilty and sentenced as narrated above in the opening part of the judgment.

Learned counsel contends that in the initial version, the complainant disclosed that 4 persons including the appellant had abused him in the name of his caste and creed, but when appeared as PW-1, he only confined his deposition qua appellant only. Trial court has failed to appreciate the above improvement of the complainant. The conviction of the appellant is not justified from another angle because the complainant, never deposed that the appellant was aware of his caste, which was a mandatory condition to convict a person under SC/ST Act. There was no *mens rea* of the appellant to cause injuries to the complainant. The alleged incident took place all of a sudden. Appellant has already made to suffer a protracted trial for more than two years. He is a first offender.

On the other hand, learned State counsel has vehemently opposed the above submissions of learned counsel for the appellant and pleaded legality and validity of the impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds the impugned judgment of conviction holding the appellant guilty perfectly legal, being well reasoned based on appreciation of evidence. Therefore, the same does not require any interference and is upheld. The appeal, to this extent, is dismissed.

However, considering the allegations against the appellant that he slapped the complainant; abused him in the name of his caste and creed and also the fact that he has already made to suffer a protracted trial for more than two years, the impugned order dated 29.10.2018 qua order of sentence awarding him imprisonment for 6 months is reduced to the period already undergone, inasmuch as, fine amount of ₹6000/- imposed upon him and paid is converted into the cost of the proceedings and shall be paid to the complainant. Trial court is directed to do the needful to comply with the above direction.

Present appeal is disposed of as such.

27.02.2019

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No