

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-4022-SB of 2015

DATE OF DECISION: MAY 3, 2019

DEVI SINGH & ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. KUNAL DAWAR, ADVOCATE
FOR THE PETITIONERS.

MR. SUDHIR PARMAR, AAG, HARYANA.

MR. SURINDER DAGAR, ADVOCATE
FOR RESPONDENTS NO.2 TO 7.

MANOJ BAJAJ, J.(ORAL)

By way of present appeal, the appellants have impugned the order of sentence dated 11.8.2015 passed by the Addl. Sessions Judge, Palwal, whereby the convicts-private respondents were granted the benefit of probation, while convicting them under Section 147, 148, 452, 323, 325 read with Section 149 IPC in case FIR No.226 dated 28.5.2013, registered at Police Station Sadar, Palwal vide judgement of conviction dated 7.8.2015.

The aforesaid FIR was registered on the basis of the complaint given by Devi Singh (petitioner No.1) to the effect that the he belonged to Scheduled Caste and was an auto driver by profession. On 16.5.2013, a co-villager Narender demanded a water tanker from him at Palwal. On fulfilling the said demand, he asked for rent of the same on which Narender got infuriated and insulted him by saying casteist remarks and a scuffle erupted in which Narender gave fist blows to him. On the next day, i.e.

17.5.2013, he was again insulted by Narender in front of other persons when he was passing through them on his auto rickshaw. On 19.5.2013 at 9.00 p.m., the accused armed with farsa, kulhari, rod, sariya, knife and danda forcibly entered the house of the complainant and attacked them with their respective weapons and caused injuries to them. They also ransacked the house and took ₹1,00,000/- approximately by break opening the lock of almirah.

On the basis of the said application, FIR was registered against the accused persons. Investigation was carried out. The accused were arrested. Charges under Section 147, 148, 452, 323, 325 read with Section 149 IPC and Section 3/33 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were framed to which the accused pleaded not guilty and claimed trial.

The learned trial Court after considering the prosecution case, convicted the accused as noticed above. However, while pronouncing the quantum of sentence, the accused were extended the concession of probation, however, it was further ordered that a compensation of ₹10,000/- each be paid to the complainant/injured Devi Singh, Mahesh, Ganeshi, Sheela and Arun within 10 days, failing which the benefit of probation would be deemed to be withdrawn.

Learned counsel for the appellants contends that the Court below has grossly erred in giving the benefit of probation to the private respondents, whereas it has been duly proved that the private respondents caused serious and grievous injuries to the petitioners with deadly weapons.

It has further been contended that the Court below has also wrongly

acquitted the private respondents under Section 3/33 of SC & ST Act by holding that the casteist remarks were not made in public view, but inside the house. Learned counsel further contends that no doubt that a compensation of ₹10,000/- each has been awarded by the Court below, however, the same is not adequate. It has been further submitted that in case the amount of ₹10,000/- awarded by the Court below is reasonably enhanced, the petitioners would be satisfied and would not press their claim raised in the present petition.

At this stage, learned counsel for the respondents-convicts fairly states that he has no objection in case the compensation is reasonably increased.

After hearing learned counsel for the parties, this Court is of the opinion that ends of justice would be met if the compensation amount as awarded by the Court below is enhanced from ₹10,000/- to ₹15,000/- each.

In view of the above, the respondents-convicts are directed to pay a compensation of ₹15,000/- each, instead of ₹10,000/- each, as awarded by the Court below. With the above modification in compensation, learned counsel for the petitioners does not press his claim for challenging the concession of probation to the respondents-convict and gives up his claim for enhancement of sentence.

With the above modification in the sentence part as imposed by the trial Court, the appeal stands disposed off.

May 3, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No